

No. 10382

---

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

1  
2346

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,  
vs.

LETTIE LEE, INC., a corporation,  
Respondent.

---


Transcript of Record  
In Two Volumes  
VOLUME I  
Pages 1 to 444

---

Upon Petition for Enforcement of an Order of the National  
Labor Relations Board

FILED

MAY - 6 1943



Digitized by the Internet Archive  
in 2010 with funding from  
Public.Resource.Org and Law.Gov

No. 10382

---

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

---

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,  
vs.

LETTIE LEE, INC., a corporation,  
Respondent.

---

Transcript of Record  
In Two Volumes  
VOLUME I  
Pages 1 to 444

---

Upon Petition for Enforcement of an Order of the National  
Labor Relations Board





## INDEX

---

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	Page
Amended Charge (Board's Exhibit 1-B) . . . . .	3
Answer of Respondent to Petition for Enforcement of an Order of the National Labor Relations Board . . . . .	99
Affidavit of Service by Mail . . . . .	103
Answer to Complaint (Board's Exhibit 1-J) . . . . .	13
Certificate of National Labor Relations Board	827
Charge (Board's Exhibit 1-A) . . . . .	1
Charge, Amended (Board's Exhibit 1-B) . . . . .	3
Complaint (Board's Exhibit 1-C) . . . . .	5
Decision and Order . . . . .	55
Affidavit as to Service . . . . .	90
Conclusions of Law . . . . .	85
Findings of Fact . . . . .	59
Order . . . . .	87
Exceptions to Intermediate Report . . . . .	48
Intermediate Report . . . . .	20
Conclusions of Law . . . . .	43
Findings of Fact . . . . .	23
Recommendations . . . . .	44

Index	Page
Notice of Hearing .....	11
Order Postponing Hearing (Board's Exhibit 1-F) .....	12
Order to Show Cause.....	104
Returns on Service of Writs .....	105, 106
Petition for Enforcement of an Order of the National Labor Relations Board .....	92
Statement of Points on Which Petitioner In- tends to Rely (CCA) .....	830
Statement of Points on Which Respondent In- tends to Rely (CCA) .....	831
Stipulation re Exhibits .....	833
Testimony .....	107
Exhibits for National Labor Relations Board:	
5—Union Card, signed July 21, 1941, by Vito N. Cimarusti .....	125
6—Stipulation of Facts .....	187
7—Letter, Sept. 8, 1941, addressed to Lettie Lee, Inc., Attention: Mr. Bothman, signed David Sokol ...	251
8—Letter, Sept. 9, 1941, addressed to Lettie Lee, Inc., signed David Sokol .....	255

## Index

## Page

Exhibits for National Labor Relations  
Board—(Continued):

- 9—Letter, Sept. 13, 1941, addressed  
to Lettie Lee, Inc., signed David  
Sokol ..... 257
- 10—Union Card signed by Donald P.  
Quinn, July 21, 1941..... 271
- 11—Union Card signed by Nolan Ber-  
teaux, July 21, 1941 ..... 293
- 12—Union Card signed by Louis Bali-  
ber, July 21, 1941 ..... 303
- 13—Union Card signed by Angelo Cas-  
tella, July 21, 1941 ..... 310
- 14—Union Card signed by Joe Sardo,  
July 21, 1941 ..... 316

## Exhibits for Respondent:

- 2A/B—Letter, Aug. 13, 1941, on sta-  
tionery of National Labor Rela-  
tions Board, addressed to Lettie  
Lee, Inc., Attention: Sam Both-  
man, and signed D. C. Sargent,  
Field Examiner ..... 579
- 3-A—Letter, Sept. 11, 1941, on letter-  
head of Lettie Lee, Inc., signed by  
Sam Bothman, addressed to D. C.  
Sargent, care of National Labor  
Relations Board ..... 582

	Index	Page
Exhibits for Respondent—(Continued):		
3-B—Document, dated Sept. 11, 1941, giving list of facts as per request of National Labor Relations Board .....		584
3-C—Document listing Cutting Room Employees, Jan. 1, 1941 to July 25, 1941 .....		585
6—Agreement, Aug. 8, 1941, by and between the Dress Association of Los Angeles and International Ladies' Garment Workers' Union and the Joint Board composed of Locals 96, 97, 84 and 65.....		739
Exhibit for Trial Examiner:		
1—Drawing made by Witness Kath- ryn Lembke .....		732
Witness for International Ladies' Gar- ment Workers' Union, Cutters Local No. 84:		
Bothman, Sam —direct .....		350
Witnesses for National Labor Relations Board:		
Baliber, Louis —direct .....		302
—cross .....		307
—redirect .....		308

Index

Page

Witnesses for National Labor Relations  
Board—(Continued):

Berteaux, Nolan

—direct .....	292
—cross .....	296

Bothman, Sam

—cross .....	320
—redirect .....	328, 343
—recross .....	341, 346

Castella, Angelo

—direct .....	309
—cross .....	311

Cimarusti, Vito

—direct .....	110
—cross .....	150
—redirect .....	180
—recross .....	184

Haas, Jacob

—direct .....	239
---------------	-----

Quinn, Donald

—direct .....	264
—cross .....	282
—redirect .....	290, 291
—recross .....	291, 292

Sardo, Joe

—direct .....	315
—cross .....	317
—redirect .....	319

	Index	Page
Witnesses for National Labor Relations Board—(Continued):		
Scott, Harry		
—direct	.....	189
—cross	.....	203
—redirect	.....	216
—recross	.....	217
Sokol, David		
—direct	.....	242, 252
—cross	.....	262
Wishnak, George		
—direct	.....	220
—cross	.....	227
—redirect	.....	237
Witnesses for Respondent:		
Bothman, Sam		
—direct	.....	572, 610
—cross	.....	668
—recalled, cross	.....	786
—redirect	.....	806
—recross	.....	807
—recalled, direct	.....	824
Lamire, Dorothy Richard		
—direct	.....	502
—cross (Mr. Nicoson)	.....	506
—cross (Mr. Sokol)	.....	508
—redirect	.....	508
—recross	.....	510

Index

Page

Witnesses for Respondent—(Continued):

Lembke, Kathryn

—direct .....	428
—cross (Mr. Nicoson) .....	432
—cross (Mr. Sokol) .....	438
—redirect .....	441, 443, 444
—recross (Mr. Sokol) .....	443
—recross (Mr. Nicoson) .....	443

Litwin, Mortimer

—direct .....	463
—cross (Mr. Nicoson) .....	471
—cross (Mr. Sokol) .....	475
—redirect .....	476
—recross .....	478
—recalled, direct .....	483
—cross .....	484

Swartz, Louis

—direct .....	482, 485, 511
—cross .....	541
—redirect .....	562, 570
—cross .....	567

Thain, David Robert

—direct .....	445
—cross (Mr. Nicoson) .....	452
—cross (Mr. Sokol) .....	454
—redirect .....	455
—recross .....	456

## Index

Page

## Witnesses for Respondent—(Continued):

## Usher, Eunice Dorothy

—direct .....	394
—cross (Mr. Nicoson) .....	400
—cross (Mr. Sokol) .....	420
—redirect .....	424
—recross .....	424

## Wishnak, George

—direct .....	733
—cross .....	772
—redirect .....	774, 778
—recross .....	778, 785

## Witness for Trial Examiner:

## Lembke, Kathryn

—direct .....	701
—cross (Mr. Nicoson) .....	710
—cross (Mr. Shapiro) .....	713
—redirect .....	717, 722
—recross (Mr. Sokol) .....	721, 727
—recross (Mr. Shapiro) .....	729



BOARD'S EXHIBIT No. 1-A

United States of America  
Before the National Labor Relations Board

21st Region

Case No. XXI C1807

Date Filed July 25, 1941

In the Matter of

LETTIE LEE INC.

and

INTERNATIONAL LADIES' GARMENT  
WORKERS, CUTTERS UNION LOCAL  
No. 84, A. F. L.

CHARGE

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that Lettie Lee Inc., 719 S. Los Angeles Street, Los Angeles, Calif., has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsection (1) and (5) of said Act, in that

Since on or about June 1, 1941, and more recently on July 24, 1941, the above named company has refused to bargain in good faith with the International Ladies' Garment Workers, Cutters Union Local No. 84, A. F. L. then and there the duly designated bargaining agency for over 50 percent of the employees of the Cutting Department of said concern in violation of Section 8, subsection (5) of the Act.

That since on or about January 15, 1941, the above named company has, by its officers and agents, interfered with, restrained and coerced its employees in the exercise of the rights guaranteed them in Section 7 of the Act in violation of Section 8, subsection (1) of the Act; by urging its employees not to join the above named union, by derogatory statements against the officers of the union and by other similar acts and conduct and by all of the foregoing, said Lettie Lee Inc. has violated Section 8, subsection (1) of the Act.

That on account of the foregoing the employees of the Cutting Department of the said Lettie Lee Inc. went out on strike on July 24, 1941.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organization, give also the name and official position of the person acting for the organization.)

INTERNATIONAL LADIES'  
GARMENT WORKERS'  
UNION, CUTTERS UNION  
LOCAL No. 84, A. F. L.,  
215 E. 8th St.,  
Los Angeles, Cal.

By DAVID SOKOL,  
Attorney  
756 S. Broadway,  
Los Angeles, Calif.

Subscribed and sworn to before me this 25 day of July, 1941. At Los Angeles, Calif.

WM. R. WALSH

Reg. Director

---

BOARD'S EXHIBIT No. 1-B

[Title of Board and Cause.]

AMENDED CHARGE

Date filed 11/27, 1941

Pursuant to Section 10 (b) of the National Labor Relations Act, the undersigned hereby charges that Lettie Lee, Inc., 719 So. Los Angeles St., Los Angeles, California, has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsections (1) (3) and (5) of said Act, in that since on or about July 21, 1941, the above-named company has failed and/or refused to bargain in good faith with International Ladies' Garment Workers' Union, Cutters Local No. 84, A. F. L. as the exclusive representative of its cutters, notwithstanding the circumstance that since the above-mentioned date said labor organization has been designated by a majority of said cutters of said company. Said action on the part of said company constitutes a violation of Section 8, subsections (1) and (5) of said Act.

Since on or about July 5, 1935, the above-named company, acting through its supervisory employees and agents, has interfered with, restrained and

coerced its employees in the exercise of the rights guaranteed to them in Section 7 of said Act, in that it as interrogated its employees with respect to their affiliation with labor organizations, has urged them not to interest themselves in or affiliate with labor organizations, has made derogatory statements against labor organizations, and engaged in similar acts of like force and effect. By the commission of the acts set forth in this paragraph, said company has violated Section 8, subsection (1) of said Act.

On July 24, 1941, the following cutters of said company went on strike by reason of the acts of the said company, as set forth above: Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn and Joe Sardo.

At various times thereafter said company, acting through its supervisory employees and agents, individually solicited various of the above-named strikers to return to work. Said acts constitute a violation of Section 8, subsection (1) of said Act.

On or about September 9, 1941, said union requested the reinstatement of the above-named strikers. Since that time, however, said company has failed and/or refused to reinstate said strikers. Such failure and/or refusal constitutes a violation of Section 8, subsections (1) and (3) of said Act.

The undersigned further charges that said unfair labor practices are unfair labor practices affecting commerce within the meaning of said Act.

Name and address of person or labor organization making the charge. (If made by a labor organiza-

tion, give also the name and official position of the person acting for the organization.)

INTERNATIONAL LADIES'  
GARMENT WORKERS'  
UNION, CUTTERS LOCAL  
No. 84, A. F. L.

By DAVID SOKOL

Attorney  
707 S. Hill St.,  
Los Angeles, Calif.  
TU-8500

Subscribed and sworn to before me this 27 day  
of November, 1941. At Los Angeles, Calif.

JAMES A. COBEY,  
Attorney, National Labor Re-  
lations Board, 21st Region.

---

BOARD'S EXHIBIT No. 1-C

[Title of Board and Cause.]

COMPLAINT

It having been charged by International Ladies' Garment Workers' Union, Cutters Local No. 84, chartered by American Federation of Labor, that Lettie Lee, Inc., hereinafter called "Respondent," has engaged in and is engaging in at Los Angeles, California, certain unfair labor practices affecting commerce as set forth and defined in National Labor Relations Act, approved July 5, 1935, 49 Stat. 449, hereinafter referred to as "Act," the Na-

tional Labor Relations Board, by its Regional Director for its Twenty-first Region, designated as agent of said Board by Article IV, Section 1, subsection (c) and Article II, Section 5 of its Rules and Regulations, Series 2, as amended, hereby issues its Complaint and alleges the following:

1. Respondent is and, at all times hereinafter referred to, has been a corporation organized and existing under and by virtue of the laws of the State of California. Said Respondent has its principal office and place of business at 719 South Los Angeles Street in the City of Los Angeles, County of Los Angeles, State of California. It is engaged in the manufacture and sale of ladies' dresses and related products.

2. Respondent, in the operation of this business, causes and continuously has caused large quantities of the principal raw materials used by it in its aforesaid business, namely, rayons, threads, buttons, buckles, and zippers to be transported into the State of California from other states of the United States and from foreign countries.

3. Respondent, in the operation of this business, likewise causes and continuously has caused large quantities of ladies' dresses and related products to be transported out of the State of California to states of the United States other than the State of California and to foreign countries.

4. International Ladies' Garment Workers' Union, Cutters Local No. 84, A. F. L., hereinafter called "Union," is a labor organization within the meaning of Section 2, subsection (5) of the Act.



5. A unit for the purposes of collective bargaining composed of all persons employed by the Respondent as full-time cutters would insure to such employees of Respondent the full benefit of their right to self-organization and would otherwise effectuate the policies of the Act. Said unit is, therefore, appropriate for the purposes of collective bargaining between the representatives of such employees and Respondent.

6. By July 21, 1941, or before that date, a majority of the employees of Respondent within the unit set forth in paragraph 5 had designated the Union as their representative for the purpose of bargaining collectively with Respondent with respect to their compensation, hours of employment and other conditions of employment. This majority status of the Union within this unit has continued up to and including the date of this Complaint.

7. On or about July 22, 1941, and at all times thereafter up to and including the date of this Complaint, Respondent, while engaged in its afore-described business, has failed and/or refused and does now fail and/or refuse to bargain collectively in good faith with the Union.

8. By the commission of the acts set out in paragraph 7 and by the commission of each of them, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsections (1) and (5) of the Act.

9. Since in or about September 1938, or prior to that date, and at all times thereafter up to and including the date of this Complaint, Respondent,

while engaged in its aforescribed business and acting through its agents and servants and particularly Lettie Lee, Sam Bothman and Louis Schwartz, has interfered with, restrained, and coerced, and is now interfering with, restraining, and coercing its employees in the exercise of their rights to engage in concerted activities for the purpose of bargaining collectively with Respondent or for other mutual aid or protection in that:

(a) It has continually sought to ascertain and/or has ascertained whether persons seeking employment with it were interested in and/or affiliated with any labor organization and/or particularly the Union.

(b) On or about June 10, 1941, it, acting through the aforementioned Schwartz, made statements to various of its employees derogatory to the Union and on or about June 11, 1941, it, acting through the aforementioned Bothman, made similar statements derogatory to the Union and labor organizations generally in the presence of its cutters and threatened to terminate its business rather than sign a collective bargaining agreement with the Union.

(c) On or about June 13, 1941, it, acting through the aforementioned Bothman, raised the wages of its cutters for the purpose and/or with the effect of discouraging its employees from interesting themselves in and/or affiliating themselves with the Union.

(d) On or about July 24, 25, 26, 27, 28, September 21, 27, October 5, and October 8, 1941,



it, acting through the aforementioned Lee, Bothman and Schwartz, solicited individually various of its employees to return to work after those employees had gone out on strike on July 24, 1941.

10. By the commission of the acts set out in paragraph 9, and by the commission of each of them, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, Subsection (1) of the Act.

11. Respondent, while engaged in its aforedescribed business, on or about September 10th and September 14th, 1941, refused to reinstate to their former or substantially equivalent positions the following named employees who went out on strike on July 24, 1941: Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn and Joe Sardo, for the reason in whole or part that they and each of them had designated the Union as their representative for the purposes of collective bargaining and otherwise engaged in concerted activities for the purpose of bargaining collectively with Respondent or for other mutual aid or protection. Respondent thereby discriminated in regard to the hire and/or tenure of employment of these employees and each of them, with the purpose and/or effect of discouraging interest in, activity on behalf of, designation of, and/or affiliation with the Union. This refusal to reinstate the aforementioned employees has continued up to and including the date of this Complaint.

12. By the commission of the acts set out in paragraph 11, and by the commission of each of them, Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8, subsections (1) and (3) of the Act.

13. The acts of Respondent set out in paragraphs 7, 9, and 11, caused and/or prolonged the aforementioned strike among Respondent's employees which commenced on or about July 24, 1941 and is continuing up to and including the date of this Complaint.

14. Louis Baliber, Nolan Berteaux, Vito N. Cimarrusti, Angelo P. Costella, Donald P. Quinn and Joe Sardo are employees of Respondent within the meaning of Section 2, subsection (3) of the Act.

15. The acts of Respondent set out in paragraphs 7, 9, and 11, occurring in connection with the operation of its business as described in paragraphs 1, 2 and 3, have a close, intimate and substantial relation to trade, traffic, and commerce among the several states of the United States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

16. The acts of Respondent set out in paragraphs 7, 9, and 11, constitute unfair labor practices affecting commerce and the free flow of commerce within the meaning of Section 8, subsections (1), (3) and (5) and Section 2, subsections (6) and (7) of the Act.

Wherefore, the National Labor Relations Board, on the 5th day of December, 1941, issues its Complaint against Lettie Lee, Inc., Respondent herein.

NOTICE OF HEARING

Please Take Notice That on the 17th day of December, 1941, in Room 808, United States Postoffice and Courthouse, Los Angeles, California, at 10 o'clock in the forenoon, a hearing will be conducted before the National Labor Relations Board, by a Trial Examiner to be designated by it in accordance with its Rules and Regulations — Series 2, as amended, Article IV and Article II, Section 23, on the allegations set forth in the Complaint hereinabove set forth, at which time and place you will have the right to appear in person or otherwise, and give testimony.

You are further notified that you have the right to file with the Regional Director for the Twenty-first Region, acting in this matter as the agent of the National Labor Relations Board, an answer to the foregoing Complaint, on or before the 17th day of December, 1941.

Enclosed herewith for your information is a copy of the Rules and Regulations, made and published by the National Labor Relations Board, pursuant to authority granted in the National Labor Relations Act. Your attention is particularly directed to Article II of said Rules and Regulations.

Please Take Notice that duplicates of all exhibits which are offered in evidence will be required unless, pursuant to request or motion, the Trial Examiner in the exercise of his discretion and for good cause shown directs that a given exhibit need not be duplicated.

In Witness Whereof, the National Labor Relations Board has caused this, its Complaint and its Notice of Hearing, to be signed by the Regional Director for the Twenty-first Region on the 5 day of December, 1941.

[Seal]

WM. R. WALSH,

Regional Director, Twenty-first Region, National Labor Relations Board, Los Angeles, California.

---

BOARD'S EXHIBIT No. 1-F

[Title of Board and Cause.]

ORDER POSTPONING HEARING

Please Take Notice that the hearing in the above-entitled matter is hereby postponed to January 19, 1942, at 10 o'clock in the forenoon, at the same place as appears in the Notice of Hearing heretofore issued.

It Is Further Ordered that the Respondent's answer must be filed on or before January 9, 1942.

[Seal]

WILLIAM R. WALSH

Regional Director, Twenty-first Region National Labor Relations Board, 808 U. S. Postoffice & Courthouse, Los Angeles, California.

Dated: At Los Angeles, California, this 10th day of December, 1941.

BOARD'S EXHIBIT No. 1-J

ANSWER TO COMPLAINT

Comes Now the Respondent, Lettie Lee, Inc., a corporation, reserving all of its constitutional rights, and excepting and objecting to the jurisdiction of the National Labor Relations Board, in answer to the complaint filed in the above entitled proceeding by the said National Labor Relations Board, now and at all times denying the right of complainant to exert any claims thereunder concerning this respondent, and at all times saving and reserving unto itself all matter of benefit and advantage of exceptions that can or may be taken, of errors, uncertainties, reservations and imperfections contained in said complaint, admits, denies and alleges as follows:

I.

Admits the allegations of paragraph 1.

II.

Admits the allegations of paragraph 2.

III.

Admits the allegations of paragraph 3.

IV.

Respondent has no information or belief sufficient to enable it to answer paragraph 4, and basing its denial upon that ground, denies generally and specifically the allegations thereof.

## V.

Denies generally and specifically each and every of the allegations contained in paragraph 5.

## VI.

Denies generally and specifically each and every of the allegations contained in paragraph 6.

## VII.

Denies generally and specifically each and every of the allegations contained in paragraph 7.

## VIII.

Denies generally and specifically each and every of the allegations contained in paragraph 8.

## IX.

Denies generally and specifically each and every of the allegations contained in paragraph 9.

Further answering the allegations of said paragraph, respondent alleges that it raised the wages of its cutters at the request of its said cutters, and that said raise was not for the purpose and/or with the effect of discouraging the said employees from interesting themselves in and/or affiliating themselves with any union.

Further answering the allegations of said paragraph, respondent alleges that it has at all times been willing that said employees return to work, and that it is now willing that said employees return to their work.

Respondent further alleges that it has requested



the said employees to return to their work, but that said employees have refused so to do.

### X.

Denies generally and specifically each and every of the allegations contained in paragraph 10.

Further answering the allegations of said paragraph, respondent specifically denies that it has in any manner engaged in any unfair labor practices within the meaning of Section 8, subsection (1) of the National Labor Relations Act, or any other part or portion thereof, whether as alleged in said complaint or otherwise.

### XI

Denies generally and specifically each and every of the allegations contained in paragraph 11.

Further answering the allegations of said paragraph, respondent alleges that it has requested its said employees to return to their work and has offered to reinstate the said employees to their former positions. That said employees have refused and still refuse to return to their work. That respondent has at all times been and now is ready and willing to allow and permit said employees to return to their work, and to reinstate the said employees in their former positions.

### XII.

Denies generally and specifically each and every of the allegations contained in paragraph XII.

Further answering the allegations of said paragraph, Respondent denies that it has engaged or is

now engaging in any unfair labor practices within the meaning of Section 8, subsections (1) and (3) of the National Labor Relations Act, or any other part or portion thereof, whether as alleged in paragraph 11 of said complaint or otherwise.

### XIII.

Denies generally and specifically each and every of the allegations of paragraph 13.

### XIV.

Denies that the employees named in paragraph 14 of said complaint are employees of respondent within the meaning of Section 2, subsection (3) of the National Labor Relations Act.

### XV.

Denies generally and specifically each and every of the allegations of paragraph XV.

### XVI.

Denies generally and specifically each and every of the allegations of paragraph 16.

For a Further, Separate and Affirmative Defense to Said Complaint, Respondent Alleges:

#### I.

That at all times mentioned in plaintiff's complaint and now respondent employs substantially in excess of 115 persons in connection with its business of manufacturing and selling of ladies' dresses and garments. That at all times mentioned in plaintiff's complaint, respondent employed 15 per-



sons in its cutting department. That the six employees referred to in said complaint, namely, Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn and Joe Sardo, do not constitute a majority of the persons employed in the cutting department of respondent's place of business.

For a Further, Separate and Second Affirmative Defense to Said Complaint, Respondent Alleges:

I.

That when the strike referred to in said complaint was called by the Union and at the time thereof, to-wit, on or about July 24, 1941, only approximately twenty out of all of respondent's employees went on strike and left respondent's employment. That the vast majority of respondent's employees refused to strike or leave their employment and have continued in the employ of respondent, and are still in the employ of respondent.

That said union has never represented and does not now represent a majority of the persons employed by respondent, and does not represent the employees of respondent for the purposes of collective bargaining.

As a Further, Separate and Third Affirmative Defense, Respondent Alleges:

I.

That the cutting department or the cutters of respondent's factory do not constitute an appro-

priate unit for the purpose of collective bargaining. That respondent's entire shop and plant is the unit appropriate for the purposes of collective bargaining within the meaning of Section 9 of the National Labor Relations Act. That by reason of the fact that the said cutting department or said cutters do not constitute the unit appropriate for the purpose of collective bargaining, as hereinbefore alleged, and for the further reason that the union does not in any event represent a majority of the persons employed in said cutting department, and for the reason that respondent's entire plant or factory is the unit appropriate for the purposes of collective bargaining within the meaning of said Act, the said union is not the legal or lawful representative of any of respondent's employes for the purpose of collective bargaining or otherwise, and respondent has not been and is not now under any obligation to negotiate with said union for said reasons.

For a Further, Separate and Fourth Affirmative Defense, Respondent Alleges:

### I.

That respondent has at all times denied and now denies that the said union is the lawful or legal representative of any of its employees for the purposes of collective bargaining within the meaning of Section 9 of the National Labor Relations Act. That the said union has never been certified or otherwise designated by the Board as the legal and proper representative of respondent's employees

or any of them, and until such time as the said union is certified as the representative of plaintiff's employees, respondent is under no obligation to negotiate with said union.

Wherefore, respondent prays that the complaint and charge be forthwith dismissed.

SAM WOLF & LEO SHAPIRO  
By LEO SHAPIRO

Attorneys for Respondent,  
Lettie Lee, Inc.

State of California,  
County of Los Angeles—ss

Sam Bothman, being by me first duly sworn, deposes and says: that he is the Secretary-Treasurer of Lettie Lee, Inc., the respondent in the above entitled action; that he has read the foregoing Answer and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true. That he is authorized to make this verification for and on behalf of said corporation, Lettie Lee, Inc.

SAM BOTHMAN

Subscribed and sworn to before me this 20th day of January 1942.

[Seal] LEO SHAPIRO

Notary Public in and for the County of Los Angeles,  
State of California.

Received copy of the within Answer this 20 day of January, 1942.

MAURICE J. NICOSON

Attorney for National Labor  
Relations Board

---

[Title of Board and Cause.]

Messrs. Maurice J. Nicoson and Charles M. Ryan,  
for the Board.

Mr. Leo Shapiro,  
of Los Angeles, Calif.,  
for the respondent.

Mr. David Sokol,  
of Los Angeles, Calif.,  
for the Union.

## INTERMEDIATE REPORT

### Statement of the Case

Upon an amended charge duly filed on November 27, 1941, by International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, herein called the Union, the National Labor Relations Board, herein called the Board, by the Regional Director for the Twenty-first Region (Los Angeles, California), issued its complaint dated December 5, 1941, against Lettie Lee, Inc., Los Angeles, California, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor

practices within the meaning of Section 8 (1), (3), and (5) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, accompanied by a notice of hearing, were duly served upon the respondent and the Union.

With reference to the unfair labor practices, the complaint alleged in substance (1) that since in or about September 1938, the respondent interfered with, restrained, and coerced its employees in the exercise of their rights to engage in concerted activities for the purpose of bargaining collectively with the respondent; (2) that on or about July 22, 1941, and at all times thereafter, the respondent refused to bargain collectively in good faith with the Union as the representative of its employees within an appropriate unit; and (3) that on or about September 10 and September 14, 1941, the respondent, refused to reinstate to their former or substantially equivalent positions six employees named in the complaint,<sup>1</sup> who went on strike July 24, 1941, for the reason that they had designated the Union as their representative for the purposes of collective bargaining and otherwise engaged in concerted activities for the purpose of bargaining collectively with the respondent or for other mutual aid or protection.

On January 20, 1942, the respondent filed an answer admitting certain allegations with respect

---

(1) The employees named in the complaint were as follows: Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn, and Joe Sardo.

to its business, but denying that it had engaged in any unfair labor practices.

Pursuant to notice, a hearing was held at Los Angeles, California, January 19, 20, 26, 27, 28, and 29, 1942, before the undersigned, the Trial Examiner duly designated by the Chief Trial Examiner. The Board, the respondent, and the Union were represented by counsel. All parties participated in the hearing and were afforded an opportunity to examine and cross-examine witnesses and to introduce evidence bearing upon the issues. At the close of the Board's case, the respondent moved to dismiss the complaint. The motion was denied. At the close of the hearing, the undersigned granted without objection a motion of the Board to conform the pleadings to the proof. The respondent renewed its motion to dismiss the complaint. Ruling on this motion was deferred. It is hereby denied. The parties were afforded an opportunity to argue orally before the undersigned and were advised that they might file briefs with the undersigned within fifteen days from the close of the hearing. All parties waived argument. Thereafter the respondent and the Union filed briefs with the undersigned. The undersigned has duly considered both briefs.

Upon the entire record in the case and from his observation of the witnesses, the undersigned makes the following:



## FINDINGS OF FACT

I. The business of the respondent<sup>2</sup>

Lettie Lee, Inc. is a California corporation engaged in the manufacture of dresses. Its office and place of business is in Los Angeles, California. In the conduct and operation of its business it uses rayons, threads, buttons, buckles and zippers. During the fiscal year ending March 31, 1940, it purchased such materials in the amount of \$151,000, of which amount \$136,000 represented purchases from sources located outside the State of California. During the calendar year ending December 31, 1940, it made sales of its products amounting to \$397,000. Of that amount \$250,000 represented sales made to purchasers located outside the State of California. The officers of Lettie Lee, Inc. are Lettie Lee, president, Mrs. R. H. Thain, vice president, and Sam Bothman, secretary-treasurer. Bothman is also the active manager of the plant. Lettie Lee, Inc. conceded at the hearing that it is engaged in interstate commerce within the meaning of the Act.

## II. The organization involved

International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, is a labor organization admitting to membership all persons employed by the respondent as full-time cutters.

---

(2) Taken mainly from a stipulation entered into at the hearing.

## III. The unfair labor practices

A. Sequence of events; interference, restrain  
and coercion

In January 1940, Angelo Costella applied for a job as a cutter. On that occasion he was asked by Sam Bothman, the respondent's general manager, if he was a union man. Costella replied that he was not, and was hired. Later that same year Vito Cimarusti made application for a job as a cutter. Bothman asked him if he belonged to the cutters' union. Cimarusti answered that he did not, and that he knew nothing about unions. Thereafter, in February 1941, he was hired. Bothman testified that he asked similar questions of several of his employees for the reason that "most of (his) employees did not belong to a union, and sometimes a person would be uncomfortable if they did."

The undersigned finds that the respondent, by seeking to ascertain whether persons seeking employment with it were interested in or affiliated with any labor organization, particularly with the Union, interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

On June 11, 1941, Bothman met with the male cutters,<sup>3</sup> in response to a demand made by them for

---

(3) The respondent employs approximately 110 production workers classified on its pay roll as designers, cutters, assorters, operators, drapers, pressers, finishers, time workers, and sample makers. Of the ten workers listed as cutters on June 11, 1941, eight were male employees: viz., Louis Swartz,



an increase in wages. The meeting was held in the plant after working hours. Bothman's first words were, "How many of you belong to the Union or intend joining the Union?" He received no answer. He told them of a pending strike in the industry; that he felt safe in talking to the cutters; and that he felt they would not join a strike if one was called. He then told them that the Union was not out to help them, that it could not do them any good, and that its officials were "a bunch of shysters." He further stated that "the Union was out to stuff this place full of cutters and keep you fellows from getting all the work you should have, and you will have to split it up with the new fellows we will have to put on." He advised the cutters that he would not have anything to do with the Union and that he would "sooner close up this place than operate under a bunch of shysters." He also related an experience that he had once had with a union when the cutters were trying to "run the place," as the result of which he had to "clear out." Bothman offered the cutters the choice of a raise in wages, which he said would necessitate the respondent's hiring of another cutter to avoid paying for overtime work, or continuing at the same

---

Vito Cimarusti, Angelo Costella, Mortimer Litwin, Joe Sardo, Louis Baliber, Don Quinn, and Nolan Berteaux, and two were female employees, viz., Eunice Usher and Katherine Lembke. Louis Swartz is the head cutter and is in general charge of the other cutters. He is regarded by his fellow employees as the foreman of the cutting room, and as having supervisory powers.

wages with the usual amount of overtime work. Over the period of a year, according Bothman, this would amount to more than would the raise in wages without overtime. He asked the cutters to decide which of the "alternatives" they preferred, and left the meeting.

The cutters decided to stand by their demand for a raise. Accordingly, on June 13, they again met with Bothman. Bothman told the cutters that he understood that they had decided to stand by their demand; that a 15 cent per hour increase would be effective immediately; that he did not want the cutters to have any dealings with the Union; and that they should keep information as to the raise from the other employees.

The undersigned finds that the respondent, by Bothman, on June 11, 1941, made statements to various of its employees derogatory to the Union and threatened to terminate its business rather than sign a collective bargaining agreement with the Union. In so doing, the respondent interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

During June and July, the International Ladies' Garment Workers' Union,<sup>4</sup> of which the Union is an autonomous part, made plans to effect the organization of unorganized dress manufacturing plants in the Los Angeles area. As part of its program, a committee of three was appointed to order a strike of dress manufacturing plants on a

---

(4) Hereinafter referred to as the International.

date to be determined by the committee. It sent letters to the companies involved, asking that they confer with the International regarding the workers in their plants. Early in July it sent such a letter to the respondent. The respondent neither answered nor acknowledged the letter. In the meantime, Harry Scott, then organizer and representative of the Union, solicited the membership of the full-time cutters of the respondent.

On July 21, Cimarusti, Sardo, Costella, Berteaux, Baliber, and Quinn, all full-time cutters, went to the office of the Union and signed membership application cards.

On the following day, July 22, Scott telephoned David Sokol, the attorney for the Union, and requested him to arrange a conference with the respondent for the purpose of collective bargaining on behalf of the cutters. Sokol telephoned the office of the respondent and asked for Bothman. He did not talk to Bothman, but gave his name and telephone number to the respondent's telephone operator. On the following day, July 23, Sokol again telephoned the respondent's office and asked for Bothman. He did not get to talk to Bothman. He asked the operator why Bothman had not returned his call and asked her to give Bothman a message that he (Sokol) represented the Union, and that it desired to enter into negotiations with the respondent; and that if the respondent did not recognize the Union, inasmuch as it represented the majority, there was a possibility of a strike because of the company's "unfair labor practices."

That night the strike committee of the International met. It received a report from Scott that a majority of the respondent's cutters had organized and was told of Sokol's failure to get in touch with Bothman. Acting upon this information, the committee included the respondent as one of the companies that was to be struck. At midnight, the strike committee advised Scott that it had called an industry-wide strike<sup>5</sup> in Los Angeles for 6 o'clock the next morning and that a picket line would be established about the plant of the respondent.

On the morning of July 24, the strike was called. The male cutters joined, and gathered in a nearby cafe where they were used to meeting. Later the same day, Bothman appeared at the cafe. He told the cutters that he was surprised that they had joined the strikers; that he thought they were a "bunch of fools"; that they should not be "chumps"; and that "any of you want to come back to work, come back with me right now."

During the day of July 24, and on the following day, Sokol made several attempts to talk to Bothman on the telephone. He reiterated to the respondent's telephone operator that Bothman should speak to him or to some other representative of the Union with respect to "entering into a bargaining relationship," and stated that Bothman's failure

---

(5) The record does not reveal clearly whether the strike was to be one of all employees in the unorganized dress manufacturing establishments, or one merely confined to cutters.

to respond to Sokol's calls "aggravated the situation." The respondent still failed to call Sokol.

On July 26, Bothman telephoned Cimarusti and expressed surprise that the cutters had gone on strike, because he had treated them "all right." He told Cimarusti that "those shysters up there, they can't do anything for you. They are looking out for themselves . . . The rest of the boys are working, some of them are coming in Monday to work for me. I want you to come in." Bothman further told him that if he had to "sign up with the Union that night, he would close up, Lettie Lee (the respondent's president) would go to Texas and he would open another shop, or do something." About a month later, Bothman met Cimarusti in the lobby of the building which houses the respondent's plant. On this occasion Bothman said to Cimarusti, "Don't be a damn fool. Go on up and go to work."

Early in October, Bothman met Quinn, Berteaux, and Cimarusti on the picket line. Bothman told them that he would have nothing to do with "those shysters up there" but wanted the three of them to return to work. One of the three told him that for such a thing to happen it was necessary for him to talk to the Union. Bothman replied, "No, I am talking to you as individuals. I am not going to talk to you in a group, or as a Union." Bothman then called into the group a friend of his who was standing close by and asked him to be a witness to what was being said. Bothman continued to urge Quinn, Berteaux, and Cimarusti to return to work. One of the three then asked as to the status of



Costella, Sardo and Baliber. Bothman told them that Costella and Baliber were trouble makers and "stinkers," that Sardo was an ex-convict, and that he would not take any of them back to work in the plant.

On or about October 8, Quinn went to the home of Foreman Swartz in response to Swartz' invitation. Swartz told Quinn that a full crew was working in the cutting room, but that he wanted Quinn to return to work. When Quinn told him that if he came back it would have to be with the rest of the striking cutters, Swartz replied:

That will never happen. You fellows haven't got a chance. I better let you know now. You just haven't got a darned chance. The Union is going to drop you in a couple of weeks. I have the inside information, and I know that the Union is going to drop you in a couple of weeks, and you won't be able to get a job anywhere in town. You will be blacklisted.

In the same conversation, Swartz told Quinn that Bothman was trying to get a contract with the Government to make uniforms, and said, "You know, the Union isn't going to strike against the Government." Swartz also reiterated that Bothman "would never sign a contract, he would close the shop first." Swartz then advised Quinn to talk to Cimarusti and Berteaux.

A day or two after his conversation with Quinn, Swartz telephoned Cimarusti. Swartz asked Cimarusti if Quinn had talked to him. Cimarusti replied in the affirmative, and said that the cutters

were not going to return to work except as a group. Swartz told Cimarusti that he was a fool, because the Union was not going to do anything for him; that several unions and the respondent had joined with the "M & M,"<sup>6</sup> and that the "M & M" would protect the workers. He told Cimarusti that the respondent would close up rather than sign a contract with the Union.

The undersigned finds that the respondent, on July 24, 26, and on subsequent dates, solicited various of its employees individually to return to work after they had gone out on a strike, thereby interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

## B. The refusal to bargain

### 1. The appropriate unit

The complaint alleges, and the Union contends, that all persons employed by the respondent as full-time cutters constitute an appropriate unit for the purpose of collective bargaining. The respondent contends that (1) all production employees constitute the appropriate unit;<sup>7</sup> (2) that if that unit be

---

(6) The "M & M" refers to the Merchants and Manufacturers Association of Los Angeles. See Sun-Tent Luebbert Co., et al., 37 N.L.R.B., No. 15.

(7) In support of this contention the respondent made proof of a contract between the International and the Dress Association of Los Angeles wherein it is provided that "Contracts made by the Union with employers who are not signatories to this collective bargaining agreement shall not extend



not appropriate, then all of the persons employed in the cutting room compose the appropriate unit; and (3) if bundlers, who work in the cutting room, should be excluded from the latter unit, then the appropriate unit consists of 12 employees classified by the respondent on its pay roll of July 25, 1941, as cutters.

As above set forth, the employees of the respondent are classified on its pay roll as designers, cutters, assorters, operators, drapers, pressers, finishers, time workers, and sample makers. The evidence amply supports a finding that from the time a style of dress is created until it is manufactured and ready for shipment, it must pass through and receive

---

for a period longer than this agreement, and shall be controlled by this exact agreement." The agreement covered most of the crafts of the dress industry, including the cutters. Even should the quoted clause be of value in the determination of the appropriate unit as historical background, still it is of value only if in so considering it, it assists in the effectuation of the Act. The facts in this case amply justify the finding that only the recognition of the cutters as a unit will result in immediate collective bargaining. The respondent further contended that the Union was not of such an autonomous nature that it could command collective bargaining in the face of an industry-wide strike. The facts clearly show that the cutters was the first craft in the industry, that it was organized more than 50 years ago, that since its organization it has upheld its prestige against aggression, and that in spite of amalgamations and reorganizations of unions in the industry it still has its own locals, elects its own officers, and is represented by one of its own members when matters concerning its members are involved.

service from employees in each of the above classifications. The operations in the plant are continuous. However, in this case, no group other than the full-time cutters has ever been organized, nor is any organization seeking to represent employees of the respondent other than the full-time cutters. Further, the respondent, as found in Section III A above, has adequately expressed its disdain toward the Union and collective bargaining generally. Under the circumstances, the contentions of the respondent that a unit other than one composed of full-time cutters, are untenable. To find otherwise would deprive the full-time cutters of the benefits of collective bargaining until the remaining production employees had organized.<sup>8</sup>

The cutting room consists of an area partially enclosed by a partition. Within this area are the cutting tables, tools and instruments used by the cutters, and shelves upon which the materials are kept. On July 22, 1941, there were employed therein four assorters or bundlers, one stock girl, and ten persons classified on the pay roll as cutters. The assorters or bundlers and the stock girl, admittedly are not cutters. The cutters, so named, all of whom are contended by the respondent to be within the unit alleged in the complaint, are Swartz, Cimarusti, Costella, Sardo, Baliber, Quinn, Berteaux, Mortimer Litwin, Eunice Usher, and Dorothy Richards. The first eight of the named cutters are admittedly full-time cutters. The respondent contends that Robert

---

(8) See *Crescent Dress Co. and Cutters Local 11, I.L.G.W.U., A. F. of L.*, 29 N.L.R.B., No. 67.

Thain and Katherine Lembke should be added to that list as cutters.

A cutter, in his normal duties, prior to July 24, 1941, at the respondent's plant, got at the commencement of a day a paper, known as a marker, of a creation that in the run of the factory became a dress. That marker is analagous to the blue-print of an architect to a contractor for the construction of a building. From the marker, he made cuts, giving particular care to the grain of the material and size of dress required. From those cuts a dress was manufactured. If orders deflected from the marker, he sized his material accordingly.

In the making of a dress it is necessary to make trimmings. It is also necessary that padding be cut for sleeves, shoulders, belts, etc. Also it is necessary that sloping be done when pleats, etc., are called for in a dress. The latter operations require care less skillful than the operations of a cutter. The reason is that a trimmer or a sloper is concerned with the cutting of a detail of the garment, whereas the cutter is charged with the exact cutting of the garment as a whole. In the Union, no one is eligible to membership except those who perform all of the operations required of a cutter.<sup>9</sup>

---

(9) In this case, the Union, after investigation, was satisfied that Cimarusti, Baliber, Costella, Berteaux, Quinn, and Sardo were eligible to membership. The respondent countered with the contention that it was operating a "1941" plant and that the exaction and precision previously required of a cutter in a plant were, therefore, not required of its cutters. The cutters were not so regarded prior to the strike.

Dorothy Usher is a qualified cutter. She was not so employed on July 22, nor were her qualifications known to the Union before the hearing. Prior to July 22, most of Usher's duties consisted of sloping. She was not engaged by the respondent as a full-time cutter. Neither was she eligible to membership in the Union.<sup>10</sup>

Katherine Lembke was not eligible to membership in the Union on July 22.<sup>11</sup> Prior to that date she spent the biggest portion of her time, as an employee of the respondent, cutting padding from cotton batting. The proof shows, however, that she is capable of performing the duties of a cutter.

Dorothy Richards is a qualified cutter. Prior to July 22 her time as an employee was occupied chiefly in sloping. She left the employ of the respondent in the fall of 1941 and does not intend to return.

Robert Thain is a brother of Lettie Lee, the president of the respondent. Early in January 1941 he left the employ of the respondent for an indefinite period. At the time that he left he was told by Bothman that if he ever returned he could have his job again. When he left, he was a full-time cutter. He returned in December 1941.

The undersigned finds that Usher, Lembke and

---

(10) The Union accepts to membership qualified female cutters.

(11) The Board contends, further, that Lembke was not properly within the unit because she left the employ of the respondent in May 1941. The proof shows that she was on leave of absence for a definite period.

Richards were not full-time cutters on July 22, 1941, and that Thain was not an employee of the respondent on that date. He also finds that the respondent recognized the claimed unit on June 11 and 13 when it bargained with the cutters, granted them a wage increase, and admonished them to keep the fact secret from other employees. He further finds that Swartz, Cimarusti, Costella, Sardo, Baliber, Quinn, Bertreaux and Litwin were the only full-time cutters on the respondent's pay rolls for the week ending July 25, 1941, and that the persons employed by the respondent as full-time cutters, at all times material herein, constituted and now constitute a unit appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment, and that said unit insures to employees of the respondent the full benefit of their right to self-organization and to collective bargaining and otherwise effectuates the policies of the Act.

2. Representation by the Union of a  
majority in the appropriate unit

Of the eight employees found to be within the appropriate unit, six signed applications for membership in the Union and requested it to bargain for them on July 21, 1941. Litwin thereafter personally informed Sokol on July 24, 1941 that he desired the Union to represent him.

The undersigned finds that on July 21, 1941, and at all times thereafter, the Union was the duly designated representative of a majority of the respond-



ent's employees in the appropriate unit, and that by virtue of Section 9 (a) of the Act it was the exclusive representative of all the employees in said unit for the purposes of collective bargaining with the respondent in respect to rates of pay, wages, hours of employment, and other conditions of employment.

### 3. The refusal to bargain

As above found, the respondent, on July 22, 23, 24, and 25, was requested to talk to Sokol or a representative of the Union for the purpose of bargaining in behalf of the cutters. This the respondent did not do.<sup>12</sup> Since those dates the respondent, by Bothman and Swartz, advised its employees that it would not having anything to do with the Union.

The undersigned finds that on July 22, 1941, and at all times thereafter, the respondent refused to bargain collectively with the Union as the exclusive

---

(12) The respondent contends that it refused to bargain because of the inappropriateness of the unit contended for by the Union. It claimed at the hearing that it would have bargained with its employees on the basis of an industrial unit. In view of all the facts, the undersigned finds this contention without merit. Assuming that the respondent believed the unit claimed by the Union to be inappropriate; it should have met with the Union's representatives to discuss the unit for which the Union contended and to advance its own ideas of what constituted an appropriate unit. This it did not do. It is evident from the record as a whole that the respondent's questioning of the appropriate unit was an afterthought, and that its real reason for refusing to meet with representatives of the Union was the desire of the respondent to avoid bargaining collectively with its employees.

representative of its employees within an appropriate unit, and that the respondent here thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed by Section 7 of the Act.

C. The discriminatory refusals of reinstate

1. The cause of the strike

As above found, the International ordered the plant of the respondent struck on July 24, 1941, after Scott had reported to it that a majority of the respondent's full-time cutters had joined the Union and that the respondent had failed to heed the telephone calls of Sokol. The undersigned has found that this failure constitutes a violation of Section 8 (5) of the Act. The undersigned finds that the strike which commenced on July 24, 1941, was caused by the unfair labor practices of the respondent. During the strike the respondent on repeated occasions sought to persuade its employees to abandon the strike, and sought to split the ranks of the strikers by stating that it would take back some of the strikers but would not take back others. These acts of the respondent constituted additional unfair labor practices. The undersigned finds that these additional unfair labor practices served to prolong the strike.

2. The refusals to reinstate

On September 9 and 13, 1941, Sokol mailed letters to the respondent, wherein he requested the respondent to reinstate Costella, Cimarusti, Ber-teaux, Baliber, Sardo, and Quinn. They have not



been reinstated. In its answer the respondent avers that "it has at all times been willing that said employees return to work, and that it is now willing that said employees return to their work . . . that it has requested the said employees to return to their work, but that said employees have refused so to do."

The record is bare of any testimony that would sustain that averment of the respondent, except that Cimarusti, Quinn, and Berteaux were invited to return to their jobs on the condition that they return as individuals without the prestige of the Union. The undersigned finds that those acts of the respondent, as set forth fully in Section III A, violated Section 8 (3) of the Act and that the respondent thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed by Section 7 of the Act.

At the hearing Bothman testified, and in its brief the respondent contends, that Sardo is not entitled to reinstatement because he is admittedly an ex-convict, having been convicted in Wisconsin of stealing 200 suits of clothes from a former employer. He was convicted of the crime, served his sentence, and has served his parole. The fact of Sardo's conviction came to the attention of Bothman shortly after the strike began.

It will be remembered that, early in October, Bothman told Cimarusti, Quinn, and Berteaux that he would not take back to work Costella and Baliber because they were trouble makers and "stinkers," and that he would not reemploy Sardo because

he was an ex-convict. The respondent offered no evidence to prove that Costella and Baliber were trouble makers and "stinkers."

The answer of the respondent is signed by Bothman and is sworn to by him. It states that the respondent offered to take back all of its striking employees, and has at all times stood ready and willing to do so. In view of this, the undersigned finds that Sardo's criminal record was not in fact the true reason for refusing him reinstatement, but that the reason lay in the fact that the respondent would not reinstate any of the six full-time cutters herein referred to, unless they returned to work as individuals and not as a group represented by the Union.<sup>13</sup>

As found above, the strike was caused and continued by the unfair labor practices of the respondent. Since Cimarusti, Quinn, Berteaux, Sardo, Baliber, and Costella went on strike as the result of these unfair labor practices, the respondent was under a duty to reinstate them to their former or substantially equivalent positions upon application therefor. The respondent, however, has not done so, thereby discriminating against them because of their concerted activity.

The undersigned finds that the respondent, on or about September 10, 1941, and thereafter, discriminated against Cimarusti, Quinn, Berteaux, Sardo, Baliber, and Costella in regard to hire and tenure

---

(13) See Chesapeake Shoe Manufacturing Company and United Shoe Workers of America, 12 N.L.R.B. 832.

of employment, thereby discouraging membership in the Union and interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

#### IV. The effect of the unfair labor practices upon commerce

The undersigned finds that the activities of the respondent as set forth in Section III above, occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead, and have led, to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. The remedy

Having found that the respondent has engaged in and is engaging in certain unfair labor practices, the undersigned will recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

It has been found that the respondent has refused to bargain collectively with the Union as the exclusive representative of its employees, in an appropriate unit. It will be recommended that the respondent, upon request, bargain collectively with the Union as such representative with respect to rates of pay, wages, hours of employment, or other conditions of employment and if an understanding is reached on such matters, to embody said understanding in a signed, written contract.

It has been found that the unfair labor practices

of the respondent caused and prolonged a strike which began on July 24, 1941. As above found, employees Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angela P. Costella, Donald P. Quinn, and Joe Sardo went on strike that day because of the unfair labor practices of the respondent. All of these employees asked for reinstatement on or about September 10 and 13, 1941, and failed to receive it. It will be recommended that the respondent offer to each of the above named employees immediate reinstatement to his former or substantially equivalent employment. The offers of reinstatement shall be without prejudice to their seniority or other rights and privileges. It will be recommended that, to effectuate the policies of the Act, the respondent make whole Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn, and Joe Sardo for any loss of pay they may have suffered by reason of the respondent's unfair labor practices as above set forth, by payment to each of them of a sum of money equal to that which he normally would have earned as wages from September 9, 1941, to the date of the offer of reinstatement, less his net earnings<sup>14</sup> during that period.

---

(14) By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local

Upon the basis of the above findings of fact and upon the entire record in this proceeding, the undersigned makes the following:

### CONCLUSIONS OF LAW

1. International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, is a labor organization within the meaning of Section 2 (5) of the Act.

2. All persons employed by the respondent as full time cutters at all times material herein constituted and now constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

3. International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, is and at all times since July 22, 1941, has been, the exclusive representative of all the employees in the above unit for the purposes of collective bargaining within the meaning of Section 9 (a) of the Act.

4. By refusing on July 22, 1941, and at all times thereafter, to bargain collectively with the International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, as the exclusive representative of the

---

2590, 8 N.L.R.B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation v. N.L.R.B.*, 311 U.S. 7.



employees in the above named unit, the respondent, Lettie Lee, Inc., has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (5) of the Act.

5. By discriminating with regard to the hire and tenure of employment of Louis Baliber, Nolan Ber-teax, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn, and Joe Sardo and thereby discouraging membership in International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, the respondent, Lettie Lee, Inc., has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (3) of the Act.

6. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent, Lettie Lee, Inc., has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

8. The strike which began on July 24, 1941, was caused by the respondent's unfair labor practices.

Upon the basis of the above findings of fact and conclusions of law, the undersigned recommends that the respondent, Lettie Lee, Inc., its officers, agents, successors, and assigns shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with International Ladies' Garment Workers' Union, Cut-

ters Local No. 84, affiliated with the American Federation of Labor, as the exclusive representative of all persons within the appropriate unit, with respect to rates of pay, wages, hours of work, or other conditions of employment;

(b) Discouraging membership in International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, or any other labor organization of its employees, by discriminating with regard to hire and tenure of employment or any other term or condition of their employment;

(c) In any manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activity for the purposes of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the undersigned finds will effectuate the policies of the Act:

(a) Upon request bargain collectively with the International Ladies' Garment Workers' Union, Cutters Local No. 8, affiliated with the American Federation of Labor, as the exclusive representative of all persons employed by the respondent within the unit hereinbefore found to be appropriate, with respect to rates of pay, wages, hours of work, and other conditions of employment, and if an understanding is reached on such matters, em-



body such understanding in a signed written contract;

(b) Offer to Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn, and Joe Sardo immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority or other rights and privileges, displacing, if necessary, employees hired since July 24, 1941;

(c) Make whole Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn, and Joe Sardo for any loss of pay they may have suffered by reason of respondent's discrimination with regard to hire and tenure of employment and terms and conditions of their employment by payment to them of a sum of money equal to that which each of them normally would have earned as wages from the date of the respondent's discrimination to the date of the offer of reinstatement, less their net earnings<sup>15</sup> during this period;

(d) Post immediately in conspicuous places throughout its plant in Los Angeles, California, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices that the respondent will not engage in the conduct from which it has been recommended that it cease and desist in paragraphs 1 (a), (b), and (c) of these recommendations; that it will take the affirmative action set forth in paragraphs 2 (a), (b), and (c) of these recommendations; and that the re-

---

(15) See footnote 14, *supra*

spondent's employees are free to become or remain members of International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, and that the respondent will not discriminate against any employee because of membership or activities in that organization;

(e) Notify the Regional Director for the Twenty-first Region in writing within twenty (20) days from the date of the receipt of this Intermediate Report what steps the respondent has taken to comply herewith.

It is further recommended that unless on or before twenty (20) days from the receipt of this Intermediate Report, respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

As provided in Section 33 of Article 2 of the Rules and Regulations of the National Labor Relations Board, Series 2—as amended—any party may, within thirty (30) days from the date of the entry of the order transferring the case to the Board, pursuant to Section 32 of Article 2 of the said Rules and Regulations, file with the Board, Shoreham Building, Washington, D. C., an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceedings (including rulings upon all motions or objections) as it relies upon, together with the original and

four copies of a brief in support thereof. As further provided in Section 33, should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within twenty (20) days after the date of the order transferring the case to the Board.

Dated: March 21, 1942.

GUSTAF B. ERICKSON,  
Trial Examiner.

---

[Title of Board and Cause.]

## EXCEPTIONS TO INTERMEDIATE REPORT

Comes Now the Respondent, Lettie Lee, Inc., and hereby excepts and objects to the Findings of Fact and Conclusions of Law and to the recommendations of Gustaf B. Erickson, Trial Examiner, as contained in that certain intermediate report in the above entitled matter under date of March 21, 1942, and to the whole thereof, and does hereby specifically and expressly except and object to the Findings of Fact, Conclusions of Law and recommendations contained therein on the following grounds, to-wit:

1. That the various matters and things alleged and set forth in paragraph III, subdivision (A) do not constitute unfair labor practices within the meaning of the National Labor Relations Act or any part or portion thereof, and do not con-

stitute a violation of the National Labor Relations Act or any part thereof.

2. That the alleged unfair labor practices set forth and referred to in paragraph III, subdivision (A) are not supported by the evidence.

3. That the alleged conversations between Louis Schwartz and Quinn and Cimarusti, referred to in paragraph III, subdivision (A), are hearsay and not binding on Respondent, and that Respondent's objection thereto on said ground should have been sustained, and Respondent's motion to strike the same on said ground should have been granted, and that said testimony should be disregarded.

4. That it affirmatively appears from paragraph III, subdivision (B), sub-subdivision 1, as follows:

(a) That the cutters do not constitute an appropriate unit for the purpose of collective bargaining;

(b) That all of the production employees of Respondent's factory constitute the appropriate unit for the purpose of collective bargaining, and that the International Ladies' Garment Workers' Union, Cutters Local 84, A.F.L., does not represent a majority of said unit for the reason that it represents only six out of approximately 110 production employees;

(c) That if all production employees do not constitute the appropriate unit that then the appropriate unit consists of all persons employed in the cutting room; that the total number of said persons is sixteen and that the union does not represent a majority of said unit;

(d) That the union does not represent a majority of the cutters for the reason that as of July 24, 1941, the date the strike was called, Respondent employed 12 cutters, and that the union claims only six as members, and therefore does not represent a majority of said cutters.

5. That the finding contained in said paragraph III, subdivision (B), sub-subdivision 1,

(a) That Dorothy Usher, Katherine Lembke and Dorothy Richards were not full time cutters is not supported by the evidence;

(b) That Robert Thain was not an employee of Respondent on July 22, 1941, is not supported by the evidence;

(c) That Respondent recognized the cutters as the appropriate unit on June 11 and 13 when it granted a wage increase to the men cutters is not supported by the evidence;

(d) That Schwartz, Cimarusti, Costella, Sardo, Baliber, Quinn, Berteaux and Litwin were the only full-time cutters is not supported by the evidence.

6. That the finding in paragraph III, subdivision (B), sub-subdivision 2, that on July 21, 1941, and at all times thereafter, the union was the representative of a majority of Respondent's employees in the appropriate unit, and that by virtue of Section 9 (a) of the National Labor Relations Act it was the exclusive representative of all the employees in said unit for the purposes of collective bargaining with Respondent in respect to rates of pay, wages, hours of employment and other con-



ditions of employment, is not supported by the evidence.

7. That the finding contained in paragraph III, subdivision (B), sub-subdivision 3, that on July 22, 1941, and thereafter Respondent refused to bargain collectively with the union as the exclusive representative of its employees within an appropriate unit is not supported by the evidence, in that the claimed unit, to-wit, the cutters, is not the appropriate unit and in any event the union does not represent a majority of the cutters in said unit and, therefore, Respondent was under no obligation to bargain with the union as it did not represent a majority within an appropriate unit.

8. That the findings contained in paragraph III, subdivision (C), sub-subdivision 1,

(a) That the strike which commenced on July 24, 1941, was caused by the unfair labor practices of Respondent is not supported by the evidence;

(b) That Respondent committed additional unfair labor practices during the strike, and that the said alleged additional unfair labor practices served to prolong the strike is not supported by the evidence.

9. The finding contained in paragraph III, subdivision (C), sub-subdivision 2, that Respondent interfered with, restrained and coerced its employees, or that it committed any acts which amount to interference, restraint or coercion of its employees is not supported by the evidence.

10. The finding contained in paragraph III, sub-

division (C), sub-subdivision 2, that Joe Sardo's criminal record was not the true reason for refusing him reinstatement is not supported by the evidence.

11. The finding in paragraph III, subdivision (C), sub-subdivision 2, that the strike was caused and continued by unfair labor practices of Respondent is not supported by the evidence.

12. The finding in paragraph III, subdivision (C), sub-subdivision 2, that Cimarusti, Quinn, Berteaux, Sardo, Baliber, Costella went on strike as a result of unfair labor practices and that Respondent was under a duty to reinstate them to their former or substantially equivalent positions is not supported by the evidence.

13. The finding contained in paragraph III, subdivision (C), sub-subdivision 2, that Respondent on or about September 10, 1941, and thereafter discriminated against Cimarusti, Quinn, Berteaux, Sardo, Baliber and Costella in regard to hire and tenure of employment, thereby discouraging membership in the union and interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in section 7 of the Act is not supported by the evidence.

14. That the finding contained in paragraph IV that the alleged activities of Respondent as set forth in section 3 have a close, intimate and substantial relation to trade, traffic and commerce among the several states, and tend to lead and have led to labor disputes, burdening and obstruct-



ing commerce and the free flow of commerce, is not supported by the evidence.

15. The findings contained in paragraph V that,  
(a) Respondent has engaged in and is engaging in unfair labor practices;

(b) That Respondent has refused to bargain collectively with the union as the exclusive representative of its employees in an appropriate unit;

(c) That alleged unfair labor practices of respondent caused and prolonged the strike which began on July 24, 1941;

(d) That Baliber, Berteaux, Cimarusti, Costella, Quinn and Sardo went on strike on that date because of unfair labor practices of respondent;

(e) That said employees asked for reinstatement on or about September 10 and 13, 1941, and failed to receive it, are not supported by the evidence;

16. Respondent objects to paragraphs 2, 3, 4, 5, 6, 7 and 8 of the Conclusions of Law upon the ground that the same are not supported by the evidence or the Findings of Fact, and that there is no warrant or basis whatsoever for any of the findings of the Examiner or the Conclusions of Law that there has been a violation of the National Labor Relations Act or any part thereof.

17. That the findings of restraint, interference and coercion in III, subdivision A, based upon the alleged derogatory and anti-union statements of Bothman and/or Schwartz are unsupported by the evidence and are in violation of the right of free speech and expression guaranteed by the first amendment to the Federal Constitution.

18. That the Conclusions of Law that respondent has been guilty of unfair labor practices and

of interfering with, restraining and coercing its employees in the exercise of the rights guaranteed by the act, insofar as the same are based upon the alleged derogatory and anti-union statements of Bothman and/or Schwartz, are unsupported by the evidence or the findings of fact and are violative of the right of free speech and expression guaranteed by the first amendment to the Federal Constitution.

19. Respondent further objects and excepts to the recommendations of the Trial Examiner as set forth in the intermediate report upon the ground and for the reason that the evidence does not establish that respondent has been guilty of any unfair labor practices or of a violation of the National Labor Relations Act or any part thereof.

Wherefore, respondent prays that the said intermediate report be rejected and that approval thereof be denied by the Board, and that the within proceedings be dismissed.

SAM WOLF AND

LEO SHAPIRO

By LEO SHAPIRO

Attorneys for Respondent,

Lettie Lee, Inc.

[Title of Board and Cause.]

Mr. Maurice J. Nicoson and  
Mr. Charles M. Ryan,  
For the Board.

Mr. Leo Shapiro and Mr. Sam Wolf,  
Of Los Angeles, Calif.,  
For the Respondent.

Mr. David Sokol,  
Of Los Angeles, Calif.,  
For the Union.

Miss Grace McEldowney,  
Of Counsel to the Board.

## DECISION AND ORDER

### Statement of the Case

Upon an amended charge duly filed by International Ladies' Garment Workers' Union, Cutters Local No. 84, A.F.L., herein called the Union, the National Labor Relations Board, herein called the Board, by the Regional Director for the Twenty-first Region (Los Angeles, California), issued its complaint dated December 5, 1941, against Lettie Lee, Inc., Los Angeles, California, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1), (3), and (5) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint,

accompanied by notice of hearing, were duly served upon the respondent and the Union.

With reference to the unfair labor practices, the complaint alleged, in substance: (1) that in or about September 1938, and thereafter, the respondent, by attempting to ascertain whether persons seeking employment with it were affiliated with the Union, by making statements to its employees derogatory of the Union, by threatening to terminate its business rather than sign a collective bargaining agreement with the Union, by raising the wages of its cutters for the purpose of discouraging them from affiliating with the Union, and by soliciting various of its striking employees individually to return to work, interfered with, restrained, and coerced its employees in the exercise of the right to engage in concerted activities for the purpose of bargaining collectively with the respondent or for other mutual aid or protection; (2) that on or about July 22, 1941, and at all times thereafter, the respondent refused to bargain collectively in good faith with the Union, although it had been duly designated as the representative of the respondent's employees within an appropriate unit; (3) that the respondent's unfair labor practices caused and prolonged a strike among its employees which commenced on or about July 24, 1941, and continued up to and including the date of the hearing; and (4) that on or about September 10 and September 14, 1941, the respondent refused to reinstate to their former or substantially equivalent positions six striking em-

ployees named in the complaint,<sup>1</sup> for the reason that they had designated the Union as their representative for the purposes of collective bargaining and had otherwise engaged in concerted activities for the purpose of bargaining collectively with the respondent or for other mutual aid or protection. On January 20, 1942, the respondent filed an answer admitting certain allegations of the complaint with respect to its business, but denying that it had engaged in any unfair labor practices.

Pursuant to notice,<sup>2</sup> a hearing was held at Los Angeles, California, on January 19, 20, 26, 27, 28, and 29, 1942 before Gustaf B. Erickson the Trial Examiner duly designated by the Chief Trial Examiner. The Board the respondent, and the Union were represented at and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded all parties. At the close of the Board's case, the respondent moved to dismiss the complaint. The motion was denied by the Trial Examiner. At the close of the

---

<sup>1</sup>The employees named in the complaint were as follows: Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn, and Joe Sardo.

<sup>2</sup>At the opening of the hearing, counsel for the respondent raised a question as to the adequacy of the notice, and requested a continuance to enable him to prepare his case. The Trial Examiner granted the request and the hearing was accordingly adjourned from January 20 to January 26, 1942.



hearing, the Trial Examiner granted, without objection, a motion by counsel for the Board to conform the pleadings to the proof. The respondent then renewed its motion to dismiss the complaint. Ruling on this motion was deferred by the Trial Examiner, who thereafter denied the motion in his Intermediate Report. The respondent also moved to strike from the record all evidence of conversations between any of the witnesses and Louis Swartz, on the ground that Swartz was not authorized to make any statements or perform any acts on behalf of the respondent.<sup>3</sup> The motion was denied by the Trial Examiner. During the course of the hearing, the Trial Examiner made rulings on other motions and on the admissibility of evidence. The Board has reviewed all the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed. The Trial Examiner afforded all parties an opportunity to present oral argument and to file briefs. All parties waived oral argument. On February 12 and 16, 1942, respectively, the Union and the respondent filed briefs with the Trial Examiner.

Thereafter, the Trial Examiner filed his Intermediate Report, dated March 21, 1942, copies of which were duly served upon the parties. He found that the respondent had engaged in and was engaging in unfair labor practices affecting com-

---

<sup>3</sup>As appears below, Swartz was the foreman of the respondent's cutting room.



merce, within the meaning of Section 8 (1), (3), and (5) and Section 2 (6) and (7) of the Act, and recommended that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. On April 22, 1942, the respondent filed exceptions to the Intermediate Report and a brief in support of its exceptions. Neither the respondent nor the Union requested oral argument before the Board.

The Board has considered the exceptions and brief filed by the respondent and, insofar as the exceptions are inconsistent with the findings, conclusions, and order set forth below, finds them to be without merit.

Upon the entire record in the case, the Board makes the following:

## FINDINGS OF FACT

### I. The business of the respondent

Lettie Lee, Inc., is a California corporation engaged in the manufacture of dresses. Its office and place of business is in Los Angeles, California. In the conduct and operation of its business it uses rayons, threads, buttons, buckles, and zippers. During the year ending December 31, 1940, it purchased such materials in the amount of \$151,000, of which \$136,000 represented purchases from sources outside the State of California.<sup>4</sup> During

---

<sup>4</sup>Although a stipulation on commerce, entered into by the respondent and counsel for the Board, gives the above figures for purchases "during the calendar year ending March 31, 1940," this is ob-

the same period it made sales of its products amounting to \$397,000. Of that amount, \$250,000 represented sales to purchasers located outside the State of California.

The respondent concedes that it is engaged in commerce, within the meaning of the Act.

## II. The organization involved

International Ladies' Garment Workers' Union, Cutters Local No. 84, is a labor organization affiliated with the American Federation of Labor, admitting to membership cutters employed by the respondent.

## III. The unfair labor practices

### A. Sequence of events; interference, restraint, and coercion

In January 1940, Angelo Costella, one of the employees involved in the present proceeding, applied to the respondent for a job as cutter. Sam Bothman, the respondent's secretary-treasurer and general manager, asked him whether he was a union man. Costella replied that he was not, and was hired. Later in the same year, Vito Cimarusti also applied to Bothman for work and was asked

---

viously an error. The respondent, in a letter of September 11, 1941, to the Regional Office of the Board, introduced in evidence at the hearing, gave the same figures for the period from January 1 to December 31, 1940, which is the period used in both the letter and the stipulation in reference to sales. It would appear that, in both instances, the information covers the calendar year ending December 31, 1940.

whether he belonged to the Union. Cimarusti said that he did not, and that he knew nothing about it. Thereafter, in February 1941, he was hired. At the hearing, Bothman admitted having sometimes asked applicants for employment whether they were union members, giving as his reason for so doing that "most of [his] employees did not belong to a union, and sometimes a person would be uncomfortable, if they did."

On June 11, 1941, Bothman met with the respondent's male cutters<sup>5</sup> in reponse to a request by them for an increase in wages. The meeting was held in the plant after working hours. According to the testimony of Cimarusti, a witness for the Board,<sup>6</sup> Bothman first asked the cutters how many of them belonged to the Union or intended to join it. Receiving no reply, he proceeded to tell them that the union officials were "a bunch of shysters," who were not "out to help" the employees and who could do them no good. He warned them that the Union would "stuff this place full of cutters and keep you fellows from getting all the work that you should, and you

---

<sup>5</sup>The male cutters working in the plant at that time were Louis Swartz, Mortimer Litwin, Louis Baliber, Nolan Berteaux, Vito N. Cimarusto, Angelo P. Costella, Donald P. Quinn, and Joe Sardo. Swartz was the respondent's head cutter, in general charge of the cutting room. He had supervisory duties, and was regarded by his fellow employees as their foreman.

<sup>6</sup>Cimarusti's testimony was corroborated in all essential particulars by that of Quinn.

will have to split it up with the new fellows we will have to put on." He further advised them that he would have nothing to do with the Union, saying that he would "sooner close up this place than operate under a bunch of shysters," and related an experience that he had had in dealing with a union when the cutters had tried "to run the place" and as a result he had had to "clear out." He also spoke of an impending strike in the industry and said that he wanted to know the cutters' attitude toward it, stating that he felt safe in talking to them and that he did not think they would join a strike if it was called.<sup>7</sup>

In regard to their request for a raise, Bothman offered the cutters their choice of an increase in pay, which he said would necessitate the hiring of another cutter to avoid paying for overtime work, or continuing at the same rate with the usual amount of overtime. The latter, he said, would amount to more over the period of a year than would the raise in wages without overtime.

---

<sup>7</sup>At the hearing, Bothman denied that anything had been said at this meeting about the Union, and Swartz and Litwin testified that they had not heard or did not recall the above statements. Nevertheless, in view of the mutually corroborative testimony of Cimarusti and Quinn, and on the basis of the whole record, we find, as did the Trial Examiner, that, at the June 11 meeting, Bothman made, in substance, the statements attributed to him by Cimarusti and Quinn. At the second meeting of the same group, discussed below, Bothman admittedly asked the cutters how they felt about the Union.

After asking the cutters to decide and let him know which alternative they preferred, he left the meeting.

The cutters decided to stand by their request for a raise, and on June 13 again met with Bothman to give him their decision. Bothman told them that a 15-cent per hour increase would be effective immediately, but warned them that he did not want them to have any dealings with the Union. He also told them that the raise applied only to them and that they should say nothing about it to the rest of the employees.

During June and July 1941, the International Ladies' Garment Workers' Union, herein called the International, with which the Union is affiliated, made plans to organize the employees of the dress manufacturing plants in the Los Angeles area. As part of its program, a committee of three was appointed and given the power to call a strike in these plants on a date to be determined by the committee. It wrote to the companies involved, asking them to confer with the International regarding their employees. Early in July, it sent such a letter to the respondent, but the respondent neither answered nor acknowledged the letter.

In the meantime, Harry Scott, then organizer and representative of the Union, solicited the membership of the respondent's male cutters. On July 21, 1941, Baliber, Berteaux, Cimarusti, Costella, Quinn, and Sardo went to the office of the Union and signed membership application cards.

On the following day, July 22, Scott requested



David Sokol, the attorney for the Union, to arrange a conference with the respondent for the purpose of collective bargaining on behalf of the cutters. Sokol telephoned the office of the respondent and asked for Bothman. He did not talk to Bothman, but left his name and telephone number with the respondent's telephone operator. On the following day, July 23, Sokol again telephoned the respondent's office and asked for Bothman, but again he was unable to talk to Bothman. He asked the operator why Bothman had not returned his call, and requested her to give Bothman a message that Sokol represented the Union, that it desired to enter into negotiations with the respondent, and that, "if the Company did not recognize the Union, inasmuch as it represented the majority, there was a possibility of a strike because of the company's unfair labor practices."

That night the strike committee of the International met. It received a report from Scott that a majority of the respondent's cutters had signed membership applications, and was told of Sokol's failure to get in touch with Bothman. Acting upon this information, the committee included the respondent among the companies that were to be struck. At midnight on July 23, the committee advised Scott that it was calling an industry-wide strike in Los Angeles for 6 o'clock the next morning and that a picket line would be established about the plant of the respondent.

On the morning of July 24, the strike began. The male cutters and approximately 14 other em-



ployees of the respondent joined the strike. Later the same day, Bothman appeared at a nearby cafe at which the cutters had gathered. He told them that he was surprised that they had joined the strikers; that he thought they were a "bunch of fools"; that they should not be "chumps"; and that "any of you [who] want to come back to work, come back with me right now."

During that day and on the following day, Sokol made several attempts to talk to Bothman on the telephone. He reiterated to the respondent's telephone operator that he desired Bothman to speak to him or to some other representative of the Union with respect to "entering into a bargaining relationship," and stated that Bothman's failure to respond to his calls "aggravated the situation." Bothman was told of Sokol's calls, but failed to respond.

On July 26, Bothman telephoned Cimarusti and, according to Cimarusti's testimony, expressed surprise that the cutters had gone on strike, because he had treated them "all right." He told Cimarusti that "those shysters up there, they can't do anything for you. They are just looking out for themselves. \* \* \* The rest of the boys are working \* \* \* some of them are coming in Monday to work for me. \* \* \* I want you to come in." He also said, according to Cimarusti, that "if he had to sign up with the Union that night, he would close up, Lettie Lee [the respondent's president] would go to Texas and he would open another shop, or do

something.”<sup>8</sup> About a month later, Bothman met Cimarusti in the lobby of the building which houses the respondent’s plant. On this occasion Bothman said to Cimarusti, “Don’t be a damned fool. Go on up and go to work.”

On September 9, 1941, Sokol wrote to the respondent requesting the reinstatement of Costella, Cimarusti, Berteaux, Baliber, Sardo, and Quinn, and at the same time requesting that the respondent bargain with the Union. On September 13, he again wrote to the respondent repeating his request for the reinstatement of all the strikers. Bothman made no reply to these requests.

In the latter part of September or in October, Bothman met Quinn, Berteaux, and Cimarusti on the picket line. Bothman told them that he would have nothing to do with “those shysters up there,” but wanted the three of them to return to work. They said that he would have to talk to the Union about that, and also asked whether he wanted Baliber and Sardo back. Bothman replied, “No, I am talking to you as individuals. I am not going to talk to you in a group.” Bothman then called a friend of his who was standing close by and asked him to be a witness to what was being said. Bothman continued to urge Quinn, Berteaux, and Cimarusti, as individuals, to return to work. They

---

<sup>8</sup>Bothman admitted having telephoned Cimarusti to ask him to return to work, but said that he did not recall the other statements attributed to him by Cimarusti. We credit Cimarusti’s testimony, as did the Trial Examiner.

again asked about Costella, Sardo, and Baliber, but Bothman told them that Costella and Baliber were trouble makers and "stinkers," that Sardo was an ex-convict, and that he would not take any of them back to work in the plant.

On or about October 8, Quinn went to the home of Foreman Swartz in response to Swartz's invitation. Swartz told Quinn that a full crew was working in the cutting room, but that he wanted Quinn to return to work. When Quinn replied that if he came back it would have to be with the rest of the striking cutters, Swartz replied:

That will never happen. You fellows haven't got a chance. I better let you know now. You just haven't got a darned chance. The Union is going to drop you in a couple weeks. I have the inside information, and I know that the Union is going to drop you in a couple weeks, and you won't be able to get a job anywhere in town. You will be blacklisted.

In the same conversation, Swartz told Quinn that Bothman was trying to get a contract with the Government to make uniforms, and said, "You know, the Union isn't going to strike against the Government." Swartz also repeated that Bothman "would never sign a contract, he would close the shop first." Swartz then advised Quinn to talk to Cimarusti and Berteaux about going back to work.

A day or two after his conversation with Quinn, Swartz telephoned Cimarusti and asked him

whether Quinn had talked to him. Cimarusti replied in the affirmative, and said that the cutters were not going to return to work except as a group. Swartz told Cimarusti that he was a fool, because the Union was not going to do anything for him; that several union shops and the respondent had joined with the "M & M";<sup>9</sup> and that the "M & M" would protect the workers. He told Cimarusti that the respondent would close up rather than sign a contract with the Union.

From the facts set forth above, we find that the respondent sought to ascertain whether persons seeking employment with it were interested in or affiliated with the Union or any other labor organization; that on June 11, 1941, through Bothman, and thereafter, through Bothman and Swartz, it made statements to various of its employees derogatory of the Union and union officials; that it threatened to terminate its business rather than sign a collective bargaining agreement with the Union; and that it solicited various of its employees individually to return to work after they had gone out on strike. We further find, as did the Trial Examiner, that by this course of conduct the respondent interfered with, restrained, and coerced

---

<sup>9</sup>The "M & M" refers to the Merchants and Manufacturers Association of Los Angeles. See *Matter of Sun-Tent Luebbert Co., et al. and Textile Workers Union of America, Local No. 99, C.I.O., and Independent Canvas Workers Union, Inc., party to the contract*, 37 N.L.R.B. 50.

its employees in the exercise of the rights guaranteed in Section 7 of the Act.<sup>10</sup>

B. The refusal to bargain collectively

1. The appropriate unit

The complaint alleges, and the Trial Examiner has found, that all persons employed by the respondent as full-time cutters<sup>11</sup> constitute a unit appropriate for the purposes of collective bargaining. The respondent, on the other hand, contends in the alternative that the bargaining unit should consist of all production employees or of all persons employed in the cutting room; or that, if the Board finds a cutters' unit appropriate, all employees classified as cutters on the respondent's pay roll should be included.

---

<sup>10</sup>In its brief the respondent contends that the Trial Examiner's finding of restraint, interference, and coercion, based upon the alleged derogatory and anti-union statements of Bothman and Swartz, was in violation of the right of free speech guaranteed by the First Amendment to the Constitution. The Supreme Court has held, however, that the Board may consider what an employer has said as well as what he has done in determining whether he has interfered with, restrained, and coerced his employees. See *N.L.R.B. v. Virginia Electric and Power Company*, 314 U.S. 469. In the present case, the anti-union statements of Bothman and Swartz clearly constituted part of a course of conduct aimed at discouraging union activity and therefore within the prohibitions of the Act.

<sup>11</sup>The employees designated in the complaint and Intermediate Report by the term "full time cutters" are the male employees listed on the respondent's pay roll as cutters.



In addition to cutters, the respondent's production employees, as listed on its pay roll, include designers, assorters, operators, drapers, pressers, finishers, time workers, and sample makers.<sup>12</sup> In the process of manufacture, a dress passes through the hands of employees in each of these classifications; the operations are continuous, and all the employees work in the same building and under the same general working conditions. All production employees might, therefore, constitute an appropriate bargaining unit. At the present time, however, the Union is the only labor organization which has requested recognition as the representative of any of the respondent's employees, and it neither admits to membership nor is seeking to represent any employees except the cutters. To find a unit of all production employees appropriate would, therefore, deprive the cutters of the benefits of collective bargaining until the remaining production employees are organized. Under similar circumstances, we have previously found a cutters' unit to be appropriate.<sup>13</sup> The question remains

---

<sup>12</sup>During the week ending July 25, 1941, the respondent employed 110 production employees, 10 of whom were listed as cutters.

<sup>13</sup>See *Matter of Crescent Dress Co. and Cutters Local 11, I.L.G.W.U., A. F. of L.*, 29 N.L.R.B. 351. Cf. *Matter of Justin McCarty, Inc. and International Ladies' Garment Workers' Union, Local No. 387*, 36 N.L.R.B. 800; *Matter of Morten-Davis Company, doing business under the trade name of Donovan Manufacturing Company and International Ladies' Garment Workers' Union No. 387*, 36 N.L.R.B. 804; and *Matter of Kohen-Ligon-Folz*,



whether, in this case, the appropriate unit should consist of the full-time cutters only, as the Trial Examiner has found, or should include some or all of the other employees in the cutting room.

The cutting room in the respondent's plant is an area partially enclosed by a partition, within which are located the cutting tables, tools, and instruments, and shelves upon which materials are kept. The employees who work in this area are assorters or bundlers, a stock girl, and all those classified by the respondent as cutters.

The employees listed on the respondent's pay roll as cutters include both male and female employees, all of whom perform cutting operations on the dresses manufactured by the respondent, use the same tools, and have the same foreman. The union contends, however, that only the men in this group are in fact cutters, whereas the women are "slopers" or "trimmers" and, as such, are ineligible to mem-

---

Inc. and International Ladies' Garment Workers' Union, Local No. 387, 36 N.L.R.B. 808, in which we found a cutters' unit inappropriate. In these cases organization had been begun on an industrial basis before the formation of the cutters' local, and all other organized plants in the same locality had been organized on an industrial basis. While the Union in the present case is a member of a Joint Board of four locals of the International, by which it has been represented in bargaining contracts with the Dress Association of Los Angeles, it has at all times maintained an autonomous position in the International organization, electing its own representatives and, in some instances, entering into separate contracts for cutters in plants where only cutters have been organized.

bership in the Union and should not be included in a cutters' unit.<sup>14</sup>

The record shows that, prior to the strike, the men customarily, and the women occasionally, cut whole garments, but that the women spent the greater part of their time in the operations commonly known in the trade as sloping and trimming, which involve the cutting of trimmings, linings, padding, and parts of garments for which material is first pleated or otherwise specially prepared. Although the evidence regarding the relative difficulty of the work performed by the men and women is conflicting, the women admittedly received a much lower rate of pay. Nevertheless, the record shows, and the Trial Examiner has found, that Katherine Lembke, Dorothy Richards, and Eunice Usher, the only three women in this classification prior to the strike, were in fact qualified cutters, and the Union has not excepted to this finding. Since the strike, the men and women have been doing the same kind of work. Under the circumstances, we are of the opinion and we find that the slopers and trimmers should be included in the unit along with the cutters.

---

(14) Scott, a witness for the Board, testified that women cutters are eligible for membership in the Union, but that slopers are not admitted "because of their lack of ability to do anything other than that [sloping]," and that trimmers are excluded because they "are not classified as properly qualified to be cutters." As appears below, however, the women employed by the respondent for such work are in fact qualified cutters.

The only other employees who work in the cutting room are the assorters or bundlers, who assemble the pieces of the garments after they are cut, and a stock girl, who gets materials from the shelves as they are required. The duties of these employees do not involve cutting; they are not eligible for membership in the Union; and there is no evidence that they desire to be represented by the Union or to be included in a bargaining unit with the cutters. We therefore find that they are not a part of the appropriate unit.

The cutters, slopers, and trimmers who were actually working at the respondent's plant on July 22, 1941, were Swartz, Baliber, Berteaux, Cimarusti, Costella, Litwin, Quinn, Sardo Richards and Usher. Of these Swartz was the only one in a supervisory capacity. Although the Trial Examiner has included Swartz in the cutters' unit which he found appropriate, and neither the respondent nor the Union has excepted to this finding, we find that, as a supervisory employee, he is not within the unit hereinafter found appropriate.

The respondent claims that Robert Thain and Katherine Lembke were also in its employ on July 22, 1941, and should be included in the unit. Thain is a brother of Lettie Lee, the president of the respondent. Prior to January, 1941, he was admittedly employed by the respondent as a cutter. In January, however, he left for an indefinite period of time on account of his health. At the time he left, he was told by Bothman that, if he returned, he could have his job back. His name was not car-

ried on the pay roll during July 1941, nor was it included in the list of employees in the cutting department, furnished to the Regional Office of the Board by the respondent on September 11, 1941, and introduced in evidence at the hearing. He did not return to work until December, 1941. Under these circumstances we find, as did the Trial Examiner, that Thain was not an employee of the respondent on July 22, 1941. Lembke, a sloper or trimmer, had left work in May 1941 to take another position for the summer, as she had done on a previous occasion. The record shows that for this purpose she was given leave of absence for a definite period. She returned to work during October 1941. We find that she was an employee of the respondent on July 22, 1941.

We find that all cutters, slopers, and trimmers employed by the respondent, excluding supervisory employees, at all times material herein constituted, and that they now constitute, a unit appropriate for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment, and that said unit insures to employees of the respondent the full benefit of their right to self-organization and to collective bargaining and otherwise effectuates the policies of the Act. We further find that on July 22, 1941, the employees within the appropriate unit were Baliber, Berteaux, Cimarusti, Costella, Litwin, Quinn, Sardo, Lembke, Richards and Usher.

2. Representation by the Union of a majority in the appropriate unit

Of the 10 employees within the appropriate unit, 6 had signed applications for membership in the Union and requested it to bargain for them on July 21, 1941. Litwin thereafter personally informed Sokol on July 24, 1941, that he desired the Union to represent him.

We find that on July 22, 1941, and at all times thereafter, the Union was the duly designated representative of a majority of the respondent's employees in the unit hereinbefore found appropriate, and that, by virtue of Section 9 (a) of the Act, it was the exclusive representative of all the employees in said unit for the purposes of collective bargaining with the respondent in respect to rates of pay, wages, hours of employment, and other conditions of employment.

3. The refusal to bargain

As stated above, the respondent, on July 22, 23, 24, and 25, 1941, was requested to confer with Sokol or some other representative of the Union with respect to bargaining for the cutters. The respondent made no reply to these requests. Thereafter the respondent, through Bothman and Swartz, solicited some of its striking employees, as individuals, to return to work and advised them that it would have nothing to do with the Union .

Bothman testified at the hearing, and the respondent claims in its brief, that its failure to deal



with the Union was due to its belief that a cutters' unit was not appropriate.<sup>15</sup> On the basis of the entire record, however, we do not believe that a bona fide doubt as to the appropriateness of the unit claimed by the Union was the real reason for the respondent's refusal to bargain. Bothman had previously expressed to the cutters his antipathy to the Union and his unwillingness to deal with it. We therefore infer and find that the real reason for his failure to respond to Sokol's calls was the respondent's desire to avoid bargaining collectively with the Union as the representative of any of its employees, and that its subsequent questioning of the unit was merely an afterthought, as the Trial Examiner has found.<sup>16</sup>

We find that on July 22, 1941, and at all times thereafter the respondent, by failing to respond to

---

(15) Although the unit hereinbefore found appropriate differs in some respects from the unit for which the Union has been contending throughout this proceeding, we find that fact immaterial under the circumstances. The respondent, by failing to agree to a conference with the Union, precluded any discussion of the unit and in effect refused to bargain with the Union for employees in any unit.

(16) Cf. *N.L.R.B. v. Biles-Coleman Lumber Co.*, 98 F. (2d) 18, in which the Court said: "Respondent made no objection to the contract on the basis of the propriety of the unit for which it was being presented. The Board was entitled to draw the inference that respondent's refusal to negotiate with the Union was motivated, not by doubt as to the appropriate unit, but by a rejection of the collective bargaining principle."



the Union's requests for a bargaining conference, and by its solicitation of strikers, as individuals, to return to work, refused to bargain collectively with the Union as the exclusive representative of its employees in an appropriate unit, and that it thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

C. The discriminatory refusals to reinstate

As stated above, on July 23, 1941, after receiving Scott's report that a majority of the respondent's cutters had joined the Union and that the respondent had failed to respond to Sokol's requests for a bargaining conference, the International included the respondent's plant among those in which it called a strike. Having found that the respondent's failure to reply to the Union's requests constituted a refusal to bargain, within the meaning of Section 8 (5) of the Act, we further find, as did the Trial Examiner, that the strike in the respondent's plant, which commenced on July 24, 1941, was caused by the unfair labor practices of the respondent. During the strike, the respondent persisted in its refusal to deal with the Union, and on repeated occasions sought to persuade its employees to abandon the strike and attempted to split the ranks of the strikers by stating that it would take back some, but not all, of them. These acts of the respondent constituted additional unfair labor practices which, as the Trial Examiner has found, served to prolong the strike.

On September 9 and 13, 1941, Sokol notified the respondent, by letter, that the striking employees were ready and willing to return to work and requested their reinstatement. Since the strike had been caused and prolonged by the respondent's unfair labor practices, these employees were entitled, in the absence of some valid reason for discharge, to reinstatement, upon application, to their former or substantially equivalent positions, even though the respondent had hired new employees during the strike.<sup>17</sup> Nevertheless, none of them has been reinstated.

In its answer, the respondent alleged that "it has at all times been willing that said employees return to work, and that it is now willing that said employees return to their work . . . that it has requested the said employees to return to their work, but that said employees have refused to do so." At

---

(17) *Black Diamond Steamship Corporation v. N.L.R.B.*, 94 F. (2d) 875 (C.C.A. 2), cert. den. 304 U.S. 579; *Matter of McKaig-Hatch, Inc. and Amalgamated Association of Iron, Steel, and Tin Workers of North America, Local No. 1139*, 10 N.L.R.B. 33; *N.L.R.B. v. Remington Rand Inc.*, 94 F. (2d) 862 (C.C.A. 2), cert. den. 304 U.S. 576; *Stewart Die Casting Corporation v. N.L.R.B.*, 114 F. (2d) 849 (C.C.A. 7); *Matter of Rapid Roller Co., a corporation and Local 120, United Rubber Workers of America, Affiliated with the C.I.O.*, 33 N.L.R.B. 557, enf'd but remanded on another issue in 126 F. (2d) 452 (C.C.A. 7); *Matter of Shenandoah-Dives Mining Company and Mine, Mill & Smelter Workers, etc.*, 35 N.L.R.B. 1153; *Matter of The L. Hardy Company and Steel Workers Organizing Committee (CIO)*, 44 N.L.R.B., No. 197.

the hearing and in its brief, the respondent contended that there was not sufficient work available for all its employees, and that, since Sardo was an ex-convict, the respondent was under no obligation to reinstate him. These contentions are obviously inconsistent with the allegation that the respondent was at all times ready and willing to have its striking employees return to work.

The only evidence in support of the respondent's contention that it was willing to reinstate the strikers is that on several occasions the respondent, through Bothman and Swartz, invited Berteaux, Cimarusti, and Quinn to return to work. Baliber, Costella, and Sardo have at no time been offered reinstatement. Moreover, the record shows that new employees, hired during the strike, were retained in the respondent's employ after the Union's offer to terminate the strike, and that other employees were hired thereafter. The respondent's contention that there was insufficient work available is therefore untenable, nor has it offered any other reason for failing to reinstate Baliber and Costella.<sup>18</sup>

Sardo, the respondent contends, is not entitled to reinstatement because he is an ex-convict, having admittedly been convicted of a felony in Wisconsin. The fact of his conviction came to the attention of Bothman shortly after the strike began.

---

(18) Cimarusti, Quinn, and Berteaux testified that Bothman had told them that he did not want to reemploy Baliber and Costella because they were trouble makers; the respondent did not offer any evidence in support of this contention.

Nevertheless, in its answer the respondent did not allege Sardo's conviction as a defense to the charge that he had been discriminated against. In view of this fact, and since Baliber and Costella were also refused reinstatement, although in their cases no similar excuse was available, we find, as did the Trial Examiner, that Sardo's criminal record was not in fact the reason for refusing him reinstatement, but that the respondent was unwilling to reinstate any of its striking employees unless they returned to work as individuals and not as a group represented by the Union, and was seeking to rid itself of some of the strikers completely.

We find, as did the Trial Examiner, that on or about September 10, and thereafter, the respondent, by refusing to reinstate its striking employees, Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn, and Joe Sardo, discriminated in regard to their hire and tenure of employment, thereby discouraging membership in the Union and interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act.

#### IV. The effect of the unfair labor practices upon commerce

The activities of the respondent set forth in Section III, above, occurring in connection with the operations of the respondent described in Section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes bur-

dening and obstructing commerce and the free flow of commerce.

### V. The remedy

Having found that the respondent has engaged in certain unfair labor practices, we shall order it to cease and desist therefrom and to take affirmative action designed to effectuate the policies of the Act.

We have found that, on and after July 22, 1941, the Union was the exclusive representative of the employees in the appropriate unit. Having further found that the respondent refused to bargain collectively with the Union as such representative, we shall order it, upon request, to bargain collectively with the Union as the exclusive representative of the employees in the appropriate unit with respect to rates of pay, wages, hours of employment, and other conditions of employment.

We have also found that the respondent's unfair labor practices caused and prolonged the strike which began on July 24, 1941, and that on or about September 10, 1941, and thereafter, the respondent discriminated against its striking employees, Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn, and Joe Sardo, by denying them reinstatement. In such case, we normally order the reinstatement with back pay of the employees discriminated against. In the present case, however, the respondent, after refusing these employees reinstatement as a group, offered reinstatement to Berteaux, Cimarusti, and Quinn individually. This they refused, thereby resuming the status of strikers. We shall accordingly modify



our usual order with respect to back pay insofar as they are concerned.

We shall therefore order the respondent: (1) to offer to Baliber, Costella, and Sardo immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority and other rights and privileges, and (2) upon application, to offer to Berteaux, Cimarusti, and Quinn reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges.<sup>19</sup> The reinstatement shall be effected in the following manner: All employees hired by the respondent as cutters, slopers, or trimmers after July 24, 1941, the date of the commencement of the strike, shall, if necessary to provide employment for those to be offered reinstatement, be dismissed. If, despite such reduction in force, there is not sufficient employment available for the employees to be offered reinstatement, all available positions shall be distributed among the remaining employees, including those to be offered reinstatement, without discrimination against any employee because of his union membership or activities, following such system of seniority or other practice as has heretofore been applied in the conduct of the respondent's business. Those em-

---

(19) Where an employer has discriminated against employees, reinstatement of the employees discriminated against is normally necessary to effectuate the purposes of the Act. Sardo's criminal record does not, in our opinion, warrant our withholding the normally applicable remedy of reinstatement.



ployees, if any, remaining after such distribution, for whom no employment is immediately available, shall be placed upon a preferential list and offered employment in their former or substantially equivalent positions as such employment becomes available and before other persons are hired for such work, in the order determined by such system of seniority or other practice as has heretofore been followed by the respondent.

We shall also order the respondent to make whole Baliber, Costella, and Sardo for any loss of pay they may have suffered by reason of the respondent's refusal to reinstate them, by payment to each of them of a sum of money equal to that which he normally would have earned as wages from September 10, 1941, to the date of the respondent's offer of reinstatement or placement upon the preferential list hereinabove described, less his net earnings<sup>20</sup> during said period.

Berteaux, Cimarusti, and Quinn will also be or-

---

(20) By "net earnings" is meant earnings less expenses, such as for transportation, room, and board, incurred by an employee in connection with obtaining work and working elsewhere than for the respondent, which would not have been incurred but for his unlawful discharge and the consequent necessity of his seeking employment elsewhere. See *Matter of Crossett Lumber Company and United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers Union, Local 2590*, 8 N.L.R.B. 440. Monies received for work performed upon Federal, State, county, municipal, or other work-relief projects shall be considered as earnings. See *Republic Steel Corporation v. N.L.R.B.*, 311 U.S. 7.

dered made whole by the respondent for any loss of pay they may have suffered or may hereafter suffer because of the respondent's refusal to reinstate them. However, because of their refusal subsequent to September 10, 1941, to accept the respondent's offer of reinstatement, we shall exclude the period from the date of this refusal to the date on which they thereafter applied or hereafter apply for reinstatement in computing the amount of back pay due them. We shall order the respondent to pay each of them a sum of money equal to the amount which he would normally have earned as wages during the period from September 10, 1941, to the date on which he refused the respondent's offer of reinstatement and during the period from five (5) days after the date on which he has since applied or hereafter applies for reinstatement to the date on which the respondent offers him reinstatement or places him on the preferential list above described, less his net earnings during such periods.<sup>21</sup>

Even if we were to assume that the respondent's denial of reinstatement to the striking employees was not discriminatory, we would nevertheless under the circumstances award them reinstatement and back pay in the manner set forth above. Assuming that the respondent denied them reinstatement because their jobs were occupied by strikebreakers, and for no other reason, and assuming that a denial of reinstatement on such ground alone was not a violation of Section 8 (3) of the Act, nevertheless

---

(21) See footnote 20, *supra*.

the entire situation was brought about by the unfair labor practices of the respondent in interfering with, restraining, and coercing the employees in the exercise of the rights guaranteed in Section 7 of the Act and in refusing to bargain in good faith with the Union. In this situation the ordinary right of an employer to select his employees is qualified as a result of the unfair labor practices causing the strike, and not only are the striking employees entitled to reinstatement upon application, but also any refusal by the employer of their request for reinstatement subjects him to liability for loss of wages sustained by virtue of the refusal.<sup>22</sup>

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

## CONCLUSIONS OF LAW

1. International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, is a labor organization, within the meaning of Section 2 (5) of the Act.

2. All cutters, slopers, and trimmers employed by the respondent, excluding supervisory employees, at all times material herein constituted, and they now constitute, a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

---

(22) See Matter of The L. Hardy Company and Steel Workers Organizing Committee (CIO), 44 N.L.R.B., No. 197, and cases therein cited.

3. International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, was at all times material herein, and it now is, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the Act.

4. By refusing to bargain collectively with International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, as the exclusive representative of the employees in the above-stated unit, the respondent, Lettie Lee, Inc., has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (5) of the Act.

5. By discriminating with regard to the hire and tenure of employment of Louis Baliber, Nolan Berteaux, Vito N. Cimarusti, Angelo P. Costella, Donald P. Quinn, and Joe Sardo, and thereby discouraging membership in International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (3) of the Act.

6. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

7. The aforesaid unfair labor practices are un-

fair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

## ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Lettie Lee, Inc., Los Angeles, California, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with International Ladies' Garment Workers' Union Cutters Local No. 84, affiliated with the American Federation of Labor, as the exclusive representative of all its cutters, slopers, and trimmers, excluding supervisory employees;

(b) Discouraging membership in International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, or in any other labor organization of its employees, by discharging or refusing to reinstate any of its employees, or in any other manner discriminating in regard to their hire or tenure of employment, or any term or condition of their employment;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of



collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, as the exclusive representative of all its cutters, slopers, and trimmers, excluding supervisory employees;

(b) Offer to Louis Baliber, Angelo P. Costella, and Joe Sardo immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges, in the manner set forth in the section entitled "The remedy" above, and place those of them for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in such manner, offer them employment as it becomes available;

(c) Upon application, offer to Nolan Berteaux, Vito N. Cinarusti, and Donald P. Quinn immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges, in the manner set forth in the section entitled "The remedy" above, and place those of them for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in such manner, offer them employment as it becomes available;



(d) Make whole Louis Baliber, Angelo P. Costella, and Joe Sardo for any loss of pay they may have suffered by reason of the respondent's discrimination against them, by payment to each of them of a sum of money equal to that which he would normally have earned as wages during the period from September 10, 1941, to the date of the respondent's offer of reinstatement or placement upon a preferential list, less his net earnings during such period;

(e) Make whole Nolan Berteaux, Vito N. Cimarusti, and Donald P. Quinn for any loss of pay they may have suffered or may hereafter suffer because of the respondent's refusal to reinstate them, by payment to each of them of a sum of money equal to that which he would normally have earned as wages during the period from September 10, 1941, to the date on which he refused the respondent's offer of reinstatement and during the period from five (5) days after the date on which he has since applied or hereafter applies for reinstatement to the date on which the respondent offers him reinstatement or places him upon a preferential list, less his net earnings during such periods;

(f) Post immediately in conspicuous places throughout its plant in Los Angeles, California, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1 (a), (b), and (c) of this Order; (2) that it will take the af-

firmative action set forth in paragraphs 2 (a), (b), (c), (d), and (e) of this Order; and (3) that the respondent's employees are free to become or remain members of International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, and that the respondent will not discriminate against any employee because of membership or activity in that organization;

(g) Notify the Regional Director for the Twenty-first Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

Signed at Washington, D. C., this 9 day of November, 1942.

[Seal]

HARRY A. MILLIS,  
Chairman.

WM. M. LEISERSON,  
Member.

GERARD D. REILLY,  
Member.

National Labor Relations Board.

[Title of Cause.]

### AFFIDAVIT AS TO SERVICE

District of Columbia, ss:

I, Jack McCaleb being first duly sworn, an oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board

in Washington, D. C.; that on the 9th day of November 1942, I mailed postpaid, bearing government frank, by registered mail, a copy of the Decision and Order to the following named persons, addressed to them at the following addresses:

69429

International Ladies' Garment Workers'

Union, Cutters Local No. 84, A. F. of L.

215 East Eighth Street

Los Angeles, California

69430

Mr. David Sokol

707 South Hill Street

Los Angeles, California

69431

Lettie Lee, Inc.

719 South Los Angeles St.,

Los Angeles, California

69432

Messrs. Leo Shapiro and Sam Wolf

650 South Grand Avenue

Los Angeles, California

(Return Receipts attached.)

JACK McCALEB

Subscribed and sworn to before me this 9th day of November 1942.

[Seal]

KATHRYN B. HARRELL

Notary Public, D. C.

My commission expires March 1, 1947.

In the United State Circuit Court of Appeals  
for the Ninth Circuit

No. 10382

NATIONAL LABOR RELATIONS BOARD,  
Petitioner,

v.

LETTIE LEE, INC.

Respondent.

PETITION FOR ENFORCEMENT OF AN OR-  
DER OF THE NATIONAL LABOR RELA-  
TIONS BOARD

To the Honorable, the Judges of the United States  
Circuit Court of Appeals for the Ninth Circuit:

The National Labor Relations Board, pursuant to the National Labor Relations Act (Act of July 5, 1935, 49 Stat. 449, c. 372, 29 U.S.C. § 151 et seq.), respectfully petitions this Court for the enforcement of its order against respondent, Lettie Lee, Inc., Los Angeles, California, and its officers, agents, successors, and assigns. The proceeding resulting in said order is known upon the records of the Board as "In the Matter of Lettie Lee, Inc. and International Ladies' Garment Workers' Union, Cutters Local No. 84, A.F.L., Case No. C-2142."

In support of this petition, the Board respectfully shows:

(1) Respondent is a California corporation, engaged in business in the State of California, within

this judicial circuit, where the unfair labor practices occurred. This Court therefore has jurisdiction of this petition by virtue of Section 10 (e) of the National Labor Relations Act.

(2) Upon all proceedings had in said matter before the Board, as more fully shown by the entire record thereof certified by the Board and filed with this Court herein, to which reference is hereby made, and including, without limitation, complaint and notice of hearing, respondent's answer to complaint, order postponing hearing, hearing for the purpose of taking testimony and receiving other evidence, Intermediate Report, respondent's exceptions thereto, and order transferring case to the Board, the Board, on November 9, 1942, duly stated its findings of fact, conclusions of law and issued an order directed to the respondent, and its officers, agents, successors, and assigns. The aforesaid order provides as follows:

### ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Lettie Lee, Inc., Los Angeles, California, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

- (a) Refusing to bargain collectively with International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the



American Federation of Labor, as the exclusive representative of all its cutters, slopers, and trimmers, excluding supervisory employees;

(b) Discouraging membership in International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, or in any other labor organization of its employees, by discharging or refusing to reinstate any of its employees, or in any other manner discriminating in regard to their hire or tenure of employment, or any term or condition of their employment;

(c) In any other manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Upon request, bargain collectively with International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, as the exclusive representative of all its cutters, slopers, and trimmers, excluding supervisory employees;

(b) Offer to Louis Baliber, Angelo P. Costella, and Joe Sardo immediate and full rein-

statement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges, in the manner set forth in the Section entitled "The remedy" above, and place those of them for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in such manner, offer them employment as it becomes available;

(c) Upon application, offer to Nolan Berteaux, Vito N. Cimarusti, and Donald P. Quinn immediate and full reinstatement to their former or substantially equivalent positions, without prejudice to their seniority or other rights and privileges, in the manner set forth in the section entitled "The remedy" above, and place those of them for whom employment is not immediately available upon a preferential list in the manner set forth in said section, and thereafter, in such manner, offer them employment as it becomes available;

(d) Make whole Louis Baliber, Angela P. Costella, and Joe Sardo for any loss of pay they may have suffered by reason of the respondent's discrimination against them, by payment to each of them of a sum of money equal to that which he would normally have earned as wages during the period from September 10, 1941, to the date of the respondent's offer of reinstatement or placement upon a preferential list, less his net earnings during such period;

(e) Make whole Nolan Berteaux, Vito N.

Cimarusti, and Donald P. Quinn for any loss of pay they may have suffered or may hereafter suffer because of the respondent's refusal to reinstate them, by payment to each of them of a sum of money equal to that which he would normally have earned as wages during the period from September 10, 1941, to the date on which he refused the respondent's offer of reinstatement and during the period from five (5) days after the date on which he has since applied or hereafter applies for reinstatement to the date on which the respondent offers him reinstatement or places him upon a preferential list, less his net earnings during such periods;

(f) Post immediately in conspicuous places throughout its plant in Los Angeles, California, and maintain for a period of at least sixty (60) consecutive days from the date of posting, notices to its employees stating: (1) that the respondent will not engage in the conduct from which it is ordered to cease and desist in paragraphs 1 (a), (b), and (c) of this Order; (2) that it will take the affirmative action set forth in paragraphs 2 (a), (b), (c), (d), and (e) of this Order; and (3) that the respondent's employees are free to become or remain members of International Ladies' Garment Workers' Union, Cutters Local No. 84, affiliated with the American Federation of Labor, and that the respondent will not discriminate against any

employee because of membership or activity in that organization;

(g) Notify the Regional Director for the Twenty-first Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

(3) On November 9, 1942, the Board's decision and order was served upon respondent by sending a copy thereof postpaid, bearing Government frank, by registered mail, to Messrs. Leo Shapiro and Sam Wolf, respondent's attorneys in Los Angeles, California.

(4) Pursuant to Section 10 (e) of the National Labor Relations Act, the Board is certifying and filing with this Court a transcript of the entire record in the proceeding before the Board, including the pleadings, testimony and evidence, findings of fact, conclusions of law, and order of the Board.

Wherefore, the Board prays this Honorable Court that it cause notice of the filing of this petition and transcript to be served upon respondent and that this Court take jurisdiction of the proceedings and of the questions determined therein and make and enter upon the pleadings, testimony and evidence and the proceedings set forth in the transcript, and the order made thereupon set forth in paragraphs (2) hereof, a decree enforcing in whole said order of the Board and requiring respondent, and its offi-

cers, agents, successors, and assigns to comply therewith.

NATIONAL LABOR RELATIONS BOARD

By ERNEST A. GROSS

Associate General Counsel

Dated at Washington, D. C., this 5th day of March 1943.

District of Columbia, ss:

Ernest A. Gross, being first duly sworn, states that he is Associate General Counsel of the National Labor Relations Board, petitioner herein, and that he is authorized to and does make this verification in behalf of said Board; that he has read the foregoing petition and has knowledge of the contents thereof; and that the statements made therein are true to the best of his knowledge, information and belief.

ERNEST A. GROSS

Associate General Counsel

Subscribed and sworn to before me this 5th day of March 1943.

[Seal]

JOSEPH W. KULKIS

Notary Public, District of  
Columbia.

My Commission Expires April 15, 1947.

[Endorsed]: Filed Mar. 10, 1943. Paul P. O'Brien, Clerk.



[Title of Circuit Court of Appeals and Cause.]

ANSWER OF RESPONDENT, LETTIE LEE,  
INC., TO PETITION FOR ENFORCEMENT  
OF ORDER OF THE NATIONAL LABOR  
RELATIONS BOARD

To the Honorable, the Judges of the United States  
Circuit Court of Appeals for the Ninth Circuit:

Lettie Lee, Inc., respondent in the above entitled proceedings, for its answer to the petition of the National Labor Relations Board presented to this Honorable Court for the enforcement of a certain order of the National Labor Relations Board, hereinafter referred to as the "Board", respectfully alleges as follows:

I

Answering paragraph 1 of the petition, respondent admits the allegations thereof except that respondent denies that it has committed any unfair labor practices, whether as alleged in said paragraph or otherwise.

II

Answering the allegations of paragraph 2, respondent admits that on or about the 9th day of November, 1942, the Board made an order as quoted in said paragraph. Except as herein expressly admitted, respondent alleges that it does not have sufficient information or belief upon which to base an answer to the remaining allegations of said paragraph, and upon said ground and for lack of information or belief, denies generally and specifically

each and every of the remaining allegations of said paragraph.

### III

Respondent admits the allegations contained in paragraph 3.

### IV

Answering paragraph 4, respondent alleges that it does not have sufficient information or belief upon which to base an answer thereto, and upon said ground and for lack of information or belief respondent denies generally and specifically each and every of the allegations contained in said paragraph.

For a Further Answer to Said Petition, Respondent Alleges:

#### I

That the Board's findings of fact are not supported by substantial evidence.

#### II

That the Board's conclusions of law are not supported by the findings of fact.

#### III

That the Board's conclusions of law are not supported by the evidence.

#### IV

That the Board's conclusions of law are contrary to law.

#### V

That the Board's conclusions of law are contrary to law and the evidence.

VI

That the Board's order is not supported by the findings of fact.

VII

That the Board's order is not supported by the conclusions of law.

VIII

That the Board's order is not supported by the evidence.

IX

That the Board's order is contrary to law and the evidence.

X

That the Board's finding that respondent has engaged and/or is engaging in unfair labor practices within the meaning of Section 8 (1), (3) and (5) of the Act is not supported by the evidence and is contrary to law.

XI

That the Board's order is wholly void and improper and in excess of the jurisdiction of the Board.

Wherefore, respondent prays that this Honorable Court deny the petition of the National Labor Relations Board for the enforcement of its order. That the order of said Board be set aside in its entirety, or, if such prayer be denied, that this Court set aside said order of the Board in such part as the same is not supported by the evidence or its improper and, insofar as set aside, that the Court relieve respondent, its officers, agents, successors and assigns of any necessity to comply therewith.

Dated at Los Angeles, California, this 17th day of March, 1943.

SAM WOLF & LEO SHAPIRO

By LEO SHAPIRO

Attorneys for Respondent

Lettie Lee, Inc.

State of California

County of Los Angeles—ss.

Samuel Bothman, being by me first duly sworn, deposes and says: That he is the Secretary and Treasurer of Lettie Lee, Inc., respondent in the above entitled action; that he has read the foregoing Answer of Respondent, Lettie Lee, Inc., to Petition for Enforcement of Order of the National Labor Relations Board and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true.

SAMUEL BOTHMAN

Subscribed and sworn to before me this 18th day of March, 1943

[Seal]

LEO SHAPIRO

Notary Public in and for said County and State.

AFFIDAVIT OF SERVICE BY MAIL—  
1013a, C. C. P.

[Title of Circuit Court of Appeals and Cause.]

L. Ryan, being first duly sworn, says: That affiant is a citizen of the United States and a resident of the County of Los Angeles; that affiant is over the age of eighteen years and is not a party to the within and above entitled action; that affiant's business address is: 650 South Grand Avenue, Los Angeles, California that on the 19th day of March, 1943, affiant served the within Answer of Respondent, Lettie Lee, Inc., to Petition for Enforcement of Order of the National Labor Relations Board on the Petitioner in said action, by placing a true copy thereof in an envelope addressed to the attorney of record for said Petitioner at the office address of said attorney, as follows: (Here quote from envelope name and address of addressee.)

“Ernest A. Gross, Esq.

Associate General Counsel

National Labor Relations Board

Washington, D. C.”;

and by then sealing said envelope and depositing the same, with postage thereon fully prepaid, in the United States Post Office Mail Chute at 650 S. Grand Ave., Los Angeles, California, where is located the office of the attorney for the person by and for whom said service was made.

That there is delivery service by United States mail at the place so addressed, or there is a regu-



lar communication by mail between the place of mailing and the place so addressed.

[Seal]                      L. RYAN

Subscribed and sworn to before me this 19th day of March, 1943.

LEO SHAPIRO

Notary Public in and for the County of Los Angeles, State of California.

[Endorsed]:      Filed Mar. 22, 1943. Paul P. O'Brien, Clerk.

---

ORDER TO SHOW CAUSE

CCA #10382

United States of America, ss:

The President to the United States of America

To Lettie Lee, Inc., 719 South Los Angeles St., Los Angeles, California, and International Ladies' Garment Workers' Union, Cutters Local No. 84, A. F. of L., 215 East Eighth St., Los Angeles, Calif.

Greeting:

Pursuant to the provisions of Subdivision (e) of Section 160, U.S.C.A. Title 29 (National Labor Relations Board Act, Section 10(e) ), you and each of you are hereby notified that on the 10th day of March, 1943 a petition of the National Labor Relations Board for enforcement of its order entered on November 9, 1942 in a proceeding known upon the records of the said Board as "In the Mat-

ter of Lettie Lee, Inc., and International Ladies' Garment Workers' Union, Cutters Local No. 84, A.F.L., Case No. C-2142." and for entry of a decree by the United States Circuit Court of Appeals for the Ninth Circuit, was filed in the said United States Circuit Court of Appeals for the Ninth Circuit, copy of which petition is attached hereto.

You are also notified to appear and move upon, answer or plead to said petition within ten days from date of the service hereof, or in default of such action the said Circuit Court of Appeals for the Ninth Circuit will enter such decree as it deems just and proper in the premises.

Witness, the Honorable Harlen Fiske Stone, Chief Justice of the United States, this 10th day of March in the year of our Lord one thousand, nine hundred and forty-three

[Seal] PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

Marshal's Civil Docket No. 25419 Vol. 46 Page  
81

---

## RETURN ON SERVICE OF WRIT

United States of America,  
Sou. District of Calif.—ss:

I hereby certify and return that I served the annexed copy of order to show cause and copy of Board's Petition to enforce on the therein-named International Ladies Garment Union, Cutters Lo-

cal No. 84 A. F. of L. by handing to and leaving a true and correct copy thereof with Mr. Jack Haas, Cutters Representative of Local 84 personally at Los Angeles in said District on the 15th day of March, 1943.

ROBERT E. CLARK,

U. S. Marshal.

By J. P. BROOKE

Deputy.

Marshal's Fees \$4.00

Mileage \$

Expenses \$ .14

Total \$4.14

---

#### RETURN ON SERVICE OF WRIT

United States of America,

Sou. District of Calif.—ss:

I hereby certify and return that I served the annexed copy of order to show cause and copy of Board's petition to enforce on the therein-named Lettie Lee Inc. by handing to and leaving a true and correct copy thereof with Mr. Sam Bothman Secretary and Treasurer personally at Los Angeles in said District on the 15th day of March, 1943.

ROBERT E. CLARK,

U. S. Marshal.

By J. P. BROOKE

Deputy.

Before The National Labor Relations Board  
Twenty-First Region  
Case No. XXI-C-1807

In the Matter of:

LETTIE LEE, INC.

and

INTERNATIONAL LADIES' GARMENT  
WORKERS' UNION, CUTTERS LOCAL No.  
84, A.F.L.

TESTIMONY

Room 808, United States Post Office and  
Court House Building,  
Spring, Temple and Main Streets,  
Los Angeles, California

Monday, January 19, 1942.

The above-entitled matter came on for hearing,  
pursuant to notice, at 10:00 o'clock a. m.

Before:

Gustaf B. Erickson,  
Trial Examiner.

## Appearances:

Maurice J. Nicoson, and Charles M. Ryan,  
Attorneys for the National Labor Relations  
Board.

David Sokol,  
707 South Hill Street, Los Angeles, Cali-  
fornia, appearing on behalf of Interna-  
tional Ladies' Garment Workers' Union,  
Cutters Local No. 84, A.F.L.

Leo Shapiro,  
650 South Grand Avenue, Los Angeles,  
California, appearing for Lettie Lee, Inc.  
[1\*]

---

PROCEEDINGS

Trial Examiner Erickson: The proceedings will come to order.

This is a formal hearing before the National Labor Relations Board, in the matter of Lettie Lee, Inc. and International Ladies' Garment Workers' Union, Cutters Local No. 84, A. F. of L., Case No. XXI-C-1807.

The Trial Examiner appearing for the National Labor Relations Board is Gustaf B. Erickson. Counsel will please state all appearances for the record.

Mr. Nicoson: Maurice J. Nicoson appearing for the National Labor Relations Board.

---

\* Page numbering appearing at top of page of original certified Transcript of Record.

Mr. Ryan: Charles M. Ryan also appearing for the Board.

Mr. Sokol: David Sokol appearing for the Union.

Trial Examiner Erickson: Who appears for the respondent?

Mr. Sokol: I may say with respect to that, that there seems to be no appearance, Mr. Examiner, and yet I know respondent has counsel, because I have a Wage and Hour case involving this concern, and they have counsel there; and also, Mr. Cobey, who was the Board's attorney first handling this matter granted—I don't mean granted, but, rather, that he was requested to grant a continuance by counsel for the company. His name is Sam Wolf, and that continuance was granted. The trial originally was set for December 15th, I believe. [3]

Mr. Nicoson: That is correct.

Mr. Sokol: 1941, and was continued at the request of counsel for the company.

Trial Examiner Erickson: Until today?

Mr. Sokol: Until today.

Trial Examiner Erickson: Hasn't the office of the Board here, that is, the Twenty-First Region, had any word from him since that time?

Mr. Nicoson: Your Honor, we have had no communication of any kind. The respondent has not even filed an answer in this proceeding. We have had no communication from the company since the request to postpone and the order postponing the hearing until today was issued.

Trial Examiner Erickson: It is now five min-



utes after ten. Would you have someone from the office, Mr. Nicoson, call his office to see whether or not he is on his way over here? It may be that he is delayed.

Mr. Nicoson: All right, sir.

Trial Examiner Erickson: We will be in recess until Mr. Nicoson has made the call.

(A short recess was taken.)

Trial Examiner Erickson: The proceeding will come to order. Do you represent the respondent, Mr. Shapiro?

Mr. Shapiro: I do, your Honor. [4]

Mr. Nicoson: Mr. Vito Cimarusti, please.

---

### VITO CIMARUSTI,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

#### Direct Examination

Q. (By Mr. Nicoson) Will you please state your name?

A. Vito Cimarusti, V-i-t-o C-i-m-a-r-u-s-t-i.

Q. Where do you live, Mr. Cimarusti?

A. 326 West 56th Street.

Q. Is that in the City of Los Angeles, California?

A. Los Angeles, California.

Q. Have you ever been employed by the Lettie Lee Company, Inc.?

A. Yes.

Q. In what capacity were you employed?

(Testimony of Vito Cimarusti.)

A. As a cutter.

Q. When did you first begin?

A. February the 1st, 1941.

Q. How long have you been a cutter?

A. For about seven or eight years.

Q. What are the duties of a cutter? [52]

A. Well, lay out the cloth, proceed to follow the patterns out, make a marker if necessary, and do all the general cutting towards the garment.

Q. Do you, pursuant to a pattern, cut out the various component parts of a garment?

A. Yes, sir.

Q. Do you cut more than one garment at a time?

A. It all depends on the order, yes.

Q. On some orders you are required to cut more than one garment?           A. Yes.

Q. Some orders you only——           A. Cut one.

Q. ——cut one. What do you use in your cutting operation?

A. Well, there is one, two, three, sometimes four or five plies, and, why, we use a shears, and anything over that, we use a cutting knife.

Q. Are the shears operated manually?

A. Manually, yes, sir.

Q. That is like an ordinary pair of scissors?

A. Yes, sir.

Q. The cutting knife, how is that operated?

A. It is electrically powered, rotates, and you operate it and guide it and steady it by hand.

Q. It has a knife—— [53]

A. It has a power knife, operated by electricity,

(Testimony of Vito Cimarusti.)

which rotates, and you start it up and push it along, following the patterns.

Q. Push it along the lines of the pattern; is that correct?      A. That's right.

Q. When you applied for work at the Lettie Lee Company, did you have a conversation with Mr. Bothman?      A. Yes, I did.

Q. Will you state the substance of that conversation?

A. Well, that was—that happened about six or seven months prior to the date I went to work there. I walked into the office, and there was a girl at the desk, and I asked her if they needed any cutters, and she said, "No." And Mr. Bothman happened to be sitting at a desk nearby, and he happened to look up, and he recognized me, and he said, "I know you from some place."

I says, "Yes." He says, "Now, let me see where I know you from." And I told him where I had been working and where he knew me from, and he says, "Yes, he is a good boy. Take down his name."

And he asked me if I belonged to the Cutters Union at that time. I said, "No, I didn't. I didn't know anything about it."

Q. Then subsequently you did go to work there?

A. In February, yes. [54]

Q. In 1941?      A. That's right.

Q. Now, directing your attention to on or about June 11, 1941, was there a meeting between the cutters and Mr. Bothman?      A. Yes, there was.

(Testimony of Vito Cimarusti.)

Q. Where did that meeting take place?

A. It took place at 4:30 in the afternoon in the cutting room.

Q. Were you in attendance?

A. I was in attendance.

Q. How did you happen to attend that meeting?

A. Well, about 1:30 or 2:00 o'clock on that day, Lou Swarz——

Q. Who is Lou Swarz?

A. He is the head cutter and general manager of the cutting department. He called me up and told me to get down there, there was going to be a meeting with Mr. Bothman that afternoon, and he wanted me to be in on it.

Q. Where were you?           A. I was at home.

Q. Weren't you working that day?

A. I wasn't working that day.

Q. Subsequent to that telephone call, did you go to the plant?           A. I did.

Q. And you attended this meeting? [55]

A. I attended this meeting.

Mr. Shapiro: Pardon me, counsel. What was that day?

Mr. Nicoson: June 11, 1941.

The Witness: I think that is right.

Q. (By Mr.. Nicoson) What transpired at this meeting?

A. The 4:30 bell rang, and then Lou says, "Come in, Vito." And I walked into the cutting room, and the fellows and myself gathered around the tables, and about a minute later Mr. Bothman came

(Testimony of Vito Cimarusti.)

walking in. And we sat on the tables, or leaned against it. And he said, "Well," he says, "the first thing I want to know is how many of you belong to the union or intend joining the union."

Well, he didn't receive any answer. Then he went on to tell us about the bad points of the union.

Mr. Shapiro: Just a minute. I will move to strike that.

Mr. Nicoson: Yes. What did he say about the union?

Trial Examiner Erickson: All right. Strike the "bad points of the union" phrase.

Q. (By Mr. Nicoson) What did he say about it?

A. He said that they weren't out to help us, they couldn't do us any good, they were out to help themselves, they were a bunch of shysters.

Q. Who did he mean by "they"?

A. He evidently meant the officials up at the union.

Q. Well, did he mention the union in that connection? [56]

A. Well, he said, "That bunch up there" and we knew what he was talking about, because that is the only union we could have, the only one of its kind.

Q. What was it he said about it?

A. He said, "Oh, they are a bunch of shysters, they are not out to help you fellows, they are out to help themselves." And he says, "If you want a promotion," he says, "you are a cutter here, and they will keep you on as a cutter, and they will stuff this place full of cutters and keep you fellows from

(Testimony of Vito Cimarusti.)

getting all the work that you should, and you will have to split it up with the new fellows we will have to put on."

He says, "I won't have a thing to do with them. They are a bunch of shysters. I would sooner close up this place than operate under a bunch of shysters."

Q. Did he say anything about "stuffing the shop"?

A. Yes. He said they would stuff the shop. By that he meant putting more cutters on than were necessary for the work on hand.

Then he went on to give us a proposition there. He says, "I understand you fellows want a raise."

And we said, "Due to the living conditions going up, why, we do want a raise."

He says, "Well, fellows, I have a proposition for you. Here it is," he says, "I can give you the raise and have to hire another cutter, or I can keep the same crew on, and you [57] can work overtime in order to make up the difference." And he says, "I think the overtime will overcome what raise you will get, will be more than—well, during the rest of the year, at the end of the year you will have made more money by working overtime than getting a raise."

He says, "Will you fellows work right ahead, and think it over, and if you decide on what to do, let me know, and let me know next week."

Q. Will you state whether or not he said anything about having dealings with unions in the past?



(Testimony of Vito Cimarusti.)

A. Well, he said he had union dealings in the past when he had the Bothman Brothers, and it didn't work out. He says it was just a turmoil all the time, the cutters were trying to run the place, and he had to eventually clear out due to that situation.

Q. State whether or not he said anything concerning the signing of a union contract.

A. Well, if he had to sign a union contract——

Q. Is that what he said?

A. That is what he said. If he had to sign a union contract, he would sooner close up the place, and Lettie Lee would go down to her ranch in Texas and operate the ranch, and he would open up a little store, or go to work for someone.

Q. Do you know who Lettie Lee is?

A. Lettie Lee I understand is the president of the firm. [58]

Q. Did anything else transpire at that time?

A. Not that I recall at the present.

Q. For the purpose of refreshing your recollection, state whether or not anything was said concerning a strike.

Mr. Shapiro: I am going to object to the form of the question, if the Court please, on the ground it is leading and suggestive, and an attempt by counsel to rehabilitate his witness. He has testified he doesn't remember what else happened.

Trial Examiner Erickson: He may answer the question.

(Testimony of Vito Cimarusti.)

The Witness: Well, he did say something about the strike. He says, "There is a strike going to come on, and I want to know how you boys stand." And he said that he felt safe in talking to us, and he felt us boys wouldn't have walked out if the strike was called, because, he says, "I think you boys are all right, and we will stick it out together."

Q. (By Mr. Nicoson) Is that all that transpired at that meeting? A. That's all.

Q. Prior to this time had you had any dealings with the union? A. No, I didn't.

Q. Had you had any dealings with a representative of the union?

A. Yes, a representative, about three or four weeks prior [59] to that, came into the restaurant where we ate and made approaches or talked with us and tried to point out the good points, but we just didn't heed them at that time.

Q. Did you work the next day?

A. Thursday, yes, after the meeting.

Q. The day following this meeting?

A. Yes.

Q. Did anything transpire in connection with this raise business on that day?

A. Well, as was customary, all of us cutters, we met in the Exchange Cafe. That is between 7th—between Los Angeles and Main Street on 7th Street, and the boys were there, and Nolan Berteaux and I came in——

Q. Who is Nolan Berteaux?

(Testimony of Vito Cimarusti.)

A. He is another one of the cutters up at Lettie Lee, and we walked in, and the boys had already been talking the thing over about the raise or the overtime, and the majority was there and they had decided that they wanted the raise, and they said, "How do you fellows feel?" So we said, "O. K., the raise it will be."

Q. You mean by the majority, the majority of whom?      A. Of the cutters.

Q. Of Lettie Lee?

A. Yes. Well, Joe, Louis, Angelo, Don, they were there, and Nolan and I come walking in a little bit later. [60]

Q. Well, let's name the cutters by their first and last names.

A. The first is Joe Sardo, Lou Baliber——

Mr. Shapiro: How do you spell that, if you know?

The Witness: Baliber?

Mr. Shapiro: Yes.

The Witness: B-a-l-i-b-e-r. Angelo Castella and Don Quinn.

Q. (By Mr. Nicoson) Was Berteaux there?

A. Then Nolan and I come walking in and met up with the fellows, and they told us what had taken place.

Q. After that, did anything transpire concerning this matter?

A. Well, at lunch time I heard that they wanted to meet with Mr. Bothman, and Lou Swarz says, "Oh, meet with him Monday." And they wanted

(Testimony of Vito Cimarusti.)

to meet with him anyway. So they tried to get Lou to go in, and he came out and insisted on it being Monday.

Then that is all that transpired that day, but the following day, on Friday, I think Lou Baliber told me, or Angelo Castella, one or the other, said, "We are meeting with Mr. Bothman tonight, with the rest of us fellows. We will have it out tonight."

Q. Were you working that day?

A. Yes, on Friday.

Q. Did you meet with Mr. Bothman? [61]

A. At 4:30 that evening Mr. Bothman came into the cutting room.

Q. Who was present at that meeting?

A. Joe Sardo, Angelo Castella, Ton Quinn, Lou Baliber, Nolan Berteaux, Lou Swarz, Mort Litwin, and myself.

Q. Where were all of these people employed?

A. All at Lettie Lee.

Q. What do they do?

A. They are all cutters.

Trial Examiner Erickson: Is that the complete list of the cutters?

The Witness: Yes.

Trial Examiner Erickson: As of that time?

The Witness: There was one or two girls, but they weren't in the meeting. They are just trimmers.

Mr. Shapiro: That is not our position, of course.

Trial Examiner Erickson: I understand.

(Testimony of Vito Cimarusti.)

Mr. Shapiro: We contend that is only a portion of the cutters and of the cutting department.

The Witness: These girls were just the trimmers, the others. They weren't in on the meeting, no.

Q. (By Mr. Nicoson) Were they in on the first meetings? A. No, they weren't.

Q. Were any but those persons whom you have just mentioned in on the first meeting? [62]

A. Only the persons I have mentioned were at the first meeting.

Q. What transpired at this meeting on Friday?

A. Well, at 4:30 in the evening Mr. Bothman, we waited for him, he came in about two minutes after 4:30, about 4:37 or 38, and he says, "Well, fellows, I understand you want the raise." He says, "Well, it will start—it will start immediately. First of all, I don't want no dealings with the bunch down there." He says, "I understand how you fellows feel with me, and how you are going to play ball with me. You want to know how much it is going to be. Well, it is going to be 15 cents."

In other words, we were getting \$1.00, and it would be \$1.15 from then on.

"When does it begin? Immediately." And that was retroactive, back to Monday of that week.

Q. And did it begin? A. And it did.

Q. Was anything else said in that connection?

A. Well, he says, "Well, I feel safe in you boys going to play the ball square." And Lou Swarz

(Testimony of Vito Cimarusti.)

spoke up and says, "Well, I can vouch for these fellows."

He says, "Go ahead and pitch in, so we won't have to hire no other fellows. Let's work this thing out together." That's all he said. Then Swarz spoke up. [63]

Q. Will you please state whether or not anything was said as to whom this raise would apply?

A. He says just—he says, before he walked out of the cutting room, he said, "This applies just to you fellows, and keep your mouth shut. Don't say anything to the rest of them, because you know how they are, if they hear you have a raise, they will want a raise, and so on."

Q. And you did get the raise?

A. We did get the raise.

Q. Did you thereafter receive it?

A. Yes, sir. I have stubs here that would show that. Here is two days of the week that I worked (indicating), and the rest of them, up to the time we were out. Here is the last week prior to the raise. That was when I was laid off, before I went back to work.

Mr. Nicoson: Will you mark that for identification, please?

(Thereupon the document referred to was marked as Board's Exhibit 2, for identification.)

Q. (By Mr. Nicoson) I show you an instrument, which, for the purpose of identification, has been



(Testimony of Vito Cimarusti.)

marked Board's Exhibit 2, and ask you to examine it and state whether you know what it is?

A. This is a check stub that we have as a personal record. It comes on the end of our check, and we keep this, and the [64] rest we cash, and that eventually gets back.

Q. You detach that from your pay check?

A. That's right. That's for a full 40 hour week there.

Q. This is dated May 9, 1941. A. Yes.

Q. Is that the last pay day you had?

A. That was the last pay period I had before the raise.

Q. And that represents, does it, a full work week? A. That's right.

Mr. Nicoson: I offer this in evidence.

Mr. Shapiro: No objection.

Trial Examiner Erickson: It will be received.

(Thereupon the document heretofore marked for identification as Board's Exhibit 2, was received in evidence.)

Mr. Nicoson: Mark that, please.

(Thereupon the document referred to was marked as Board's Exhibit No. 3, for identification.)

Q. (By Mr. Nicoson) I now hand you an instrument which, for the purpose of identification, has been marked Board's Exhibit 3, and ask you to examine it and state, if you know, what it is.

A. It is another check stub, which shows that I

(Testimony of Vito Cimarusti.)

received pay for two days at work with the pay increase.

Q. Is the date indicated?

A. June 13, 1941. Yes. [65]

Q. Well, June 13th, is that the end of the pay period?      A. That's right.

Q. That would be for the preceding week?

A. That's right.

Q. Was it within that week that you had this conversation with Mr. Bothman?

A. It was on Wednesday of that week.

Mr. Nicoson: I will offer this in evidence.

Mr. Shapiro: No objection.

Trial Examiner Erickson: It will be received.

(Thereupon the document heretofore marked as Board's Exhibit 3 for identification, was received in evidence.)

Mr. Nicoson: Mark this, please.

(Thereupon the document referred to was marked as Board's Exhibit 4, for identification.)

Q. (By Mr. Nicoson) I will hand you an instrument which, for the purpose of identification, has been marked Board's Exhibit 4, and I ask you to examine it and state, if you know, what it is.

A. This is a check stub, showing the full week's pay. That is the following week after we were granted the raise.

Q. That was likewise detached from your pay check?      A. That's right.

(Testimony of Vito Cimarusti.)

Q. That you received from the Lettie Lee Company? A. Yes, sir. [66]

Mr. Nicoson: I offer this in evidence.

Trial Examiner Erickson: It will be received.

(Thereupon the document heretofore marked as Board's Exhibit 4, for identification, was received in evidence.)

Q. (By Mr. Nicoson) Now, I direct your attention to on or about July 21, 1941, and ask you if on that date anything happened in connection with the union?

A. On the 21st of July Joe Sardo, Angelo Castella, Nolan Berteaux, Lou Baliber, Don Quinn and myself, between 4:30 and 4:45 of that day, why, we went up to the union, and we signed up cards with Scotty, Harry Scott.

Mr. Nicoson: Will you mark that, please?

(Thereupon the document referred to was marked as Board's Exhibit 5, for identification.)

Q. (By Mr. Nicoson) I now hand you an instrument which, for the purpose of identification, has been marked Board's Exhibit 5, and ask you to examine it and state if that is the card you just referred to.

A. Yes, sir, that is the card I signed.

Q. At the union hall?

A. At the union hall.

Q. On the date shown on that card?

A. On the 21st of July.

(Testimony of Vito Cimarusti.)

Mr. Nicoson: I now offer this in evidence.

Mr. Shapiro: No objection. [67]

Trial Examiner Erickson: It will be received.

(Thereupon the document heretofore marked as Board's Exhibit 5, for identification, was received in evidence.)

### BOARD'S EXHIBIT No 5

I, the undersigned voluntarily designate the International Ladies' Garment Workers' Union as my sole representative in collective bargaining with my employer.

Date 7-21-41

Name: Vito N. Cimarusti.

Address: 725 W. 51st St.

S. S. No. 562-01-2796. Craft: Cutter.

Firm: Lettie Lee Inc.

(Union Labor 111)

(Vuelta)

---

Q. (By Mr. Nicoson) Did anything else transpire at that time?

A. Well, the reason we went up there, we wanted to find out what the union would do for us, what protection they would do—what protection they would give us and what the procedure would be for us to go through, and Mr. Scott was pretty busy, he had a meeting coming up right away, and he told us, he says, "Listen, fellows," he said—

Mr. Shapiro: Just a moment. I am going to ob-

(Testimony of Vito Cimarusti.)

ject to any testimony as to conversations not in the presence of the employer or its representative——

Trial Examiner Erickson: Overruled.

Mr. Shapiro: On the ground it is hearsay.

Trial Examiner Erickson: Overruled.

The Witness: He stated, "Listen, fellows, I am pretty busy right now, but we will meet Wednesday night, and we will have dinner together, and then we will talk this thing out, and then we will go into the contract, and what the minimum is, and what protection we are going to give you, and the procedure of the strike."

Q. (By Mr. Nicoson) Did you meet with him later? [68]

A. We met with him on that Wednesday, which would make it the 23rd.

Q. Where did you meet with him?

A. We met him at the Alexandria Hotel.

Q. Who was present?

A. Angelo Castella, Don Quinn, Nolan Berteaux, Lou Baliber, and Joe Sardo.

Q. Was Mr. Scott there?

A. Mr. Scott was there.

Q. Was anyone else there?

A. And Lee Shapiro?

Q. Who is Shapiro?

A. He is one of the boys that was working on the organizing committee for the union at that time.

Q. Did you have a conversation at this meeting?

A. Yes. We went into the details of the strike and what protection the union would give us.

(Testimony of Vito Cimarusti.)

Mr. Shapiro: Just a moment. I am going to object to this on the same ground, on the ground it calls for hearsay testimony.

Trial Examiner Erickson: The objection is overruled.

The Witness: Well, he went in and proceeded to tell us what the contract would do for us.

Q. (By Mr. Nicoson): What did he say?

A. Well, the union would protect us and that the minimum [69] would be a certain amount of money.

Q. Did he mention the money?

A. Yes, he said about 43 or 44 dollars, something like that, and he told us about how the strike would be operated. We wanted to know when the strike would be, the fellows and myself, and he said, "Well, that's a secret we can't tell you, but we want you to be advised and to be prepared that when you see the picket line downstairs in front of your building, that means for you to join it, and do the right thing by you yourself and the union."

Q. State whether or not anything was said about the number of persons that had joined.

A. Well, he was glad to see six of us fellows up there, and said, "That is the majority of the shop, and we could collaborate for the cutters only, and take care of you fellows."

Mr. Shapiro: I move to strike the answer of the witness, commencing with, "That is the majority of the shop," on the ground it calls for a conclusion of the witness.



(Testimony of Vito Cimarusti.)

Mr. Nicoson: Well, that was a statement made.

Mr. Shapiro: It doesn't appear from the answer that that was a statement made. It appears that this is this witness' conclusion.

Trial Examiner Erickson: Are you repeating a conversation?

The Witness: I was repeating Mr. Scott's conversation, yes. [70]

Trial Examiner Erickson: Let the answer stand.

Q. (By Mr. Nicoson): Did anything happen the next day?

A. Well, the next morning, why, we came to work as usual and came in front of our building, and, well, the building was about, I would say about 100 feet or 150 feet away from 7th and Los Angeles—it is right on Los Angeles Street, and we could see there was a big picket line, and Nolan and I walked over to the cafeteria, and there was the rest of the fellows, and so we just stayed at the cafeteria there, and about, oh, I imagine an hour later, a half hour to an hour later, why, Joe came into the cafe and said, "Well, Lou is out there, wants—" and we met Mort Litwin at the cafe also that morning.

Q. By Joe, whom do you refer to?

A. Mort?

Q. No, by using the word "Joe", who do you mean?

A. Joe Sardo. And Litwin stayed down with us that morning. He was with us in the cafe, and then Joe came in and says, "Well, Lou is out there. He wants us to go up there, and Louis is talking to him."

(Testimony of Vito Cimarusti.)

And so we says, "Oh, let him go. We don't want to go with him." And pretty soon we says, "Well, let's all go out and talk to him." So we went out and talked to Lou, and he made the promise that if us fellows——

Mr. Shapiro: Just a minute. [71]

Mr. Nicoson: Yes, that is not responsive.

Mr. Shapiro: Who does he refer to when he mentions Lou?

The Witness: Lou Swarz.

Mr. Nicoson: Can we have an understanding that Lou is Lou Swarz?

Mr. Shapiro: If the witness says that is who he means.

The Witness: That is who I mean. We have a Lou and Louis, and to distinguish we call Lou Lou, and Louis Louis.

Mr. Shapiro: Well, I think we ought to call these people by their full names.

Q. (By Mr. Nicoson): By Lou Swarz, you refer to the head cutter? A. That's right.

Q. Did you have a conversation with this Lou Swarz at that time?

A. Personally, I didn't.

Q. You did not. Were you present at conversation? A. I was.

Q. And did you hear the conversation?

A. I did.

Q. State what it was, and who made the statement.

Mr. Shapiro: I will object to any testimony with

(Testimony of Vito Cimarusti.)

reference to any conversations between this witness or an others and Swarz, on the ground it doesn't appear that Swarz is an officer, agent or representative of the employer, and any statements [72] that he might make would not be binding upon the employer.

Trial Examiner Erickson: The objection is overruled.

Mr. Shapiro: On the further ground there has been no proper foundation laid showing the authority or the capacity of the gentleman, Mr. Swarz, to bind the employer.

Trial Examiner Erickson: Overruled.

The Witness: Well, Lou Swarz, when we walked up to the door, was talking to Louis Baliber, and he was trying to get him to go up to work.

Q. (By Mr. Nicoson): What was he saying?

A. He says, "Come on, Louis. Don't be a fool. Come on and go to work." And Louis says, no, he wouldn't do it.

Q. By Louis you mean?

A. Louis Baliber. And then we came up, and one of the other fellows, I don't remember who it was exactly, says, "Well, Lou, you said you would stay down with us if we all stayed down." He said, "I did."

"Then why are you doing this?"

Q. Who said, "I did"?

A. Lou Swarz. And then we talked to him. So he says, "Let me go park my car, and I will be

(Testimony of Vito Cimarusti.)

right with you." So he parked his car and came over to join us.

Q. Was he in a car at that time?

A. He was.

Q. Was anyone with him? [73]

A. No, he was alone.

Q. You say he did go and park his car?

A. He did go and park his car, and came and joined us fellows.

Q. Where did he join you?

A. He joined us in the cafe.

Q. Did you see Mr. Bothman that morning?

A. About 9:30 or 10:00 o'clock Mr. Bothman came into the Exchange Cafeteria there.

Q. Were you there?           A. I was there.

Q. Did you see him?           A. I saw him.

Q. Did he make any statements that you heard?

A. He says—first of all, he walked in and he said, "Fellows," he says, "I am surprised."

Q. Whom was he talking to?

A. He was talking to all the Lettie Lee cutters, and Lou Swarz was there. He says, "I am really surprised. You are the only ones who are down. The rest of them are all working."

And we didn't say anything to him. He says, "I think you are a bunch of fools. That's all I have to say. I am really surprised." He says, "Come on," he says, "go back to work. Don't be chumps." He says, "Any of you want to come back to work, come back with me right now." [74]

We said, "Oh, nothing doing, Mr. Bothman."

(Testimony of Vito Cimarusti.)

Then he started out the cafe, and one of the—I think Lou joined him, and the rest of us followed up, and I was with Mr. Bothman and Lou, and we walked down to the corner. And we were headed to the Labor Temple on 5th or 6th and Maple. That's where the strike headquarters were, and we all walked up there, and left them at 7th and Los Angeles Street, but Lou, instead of going with us; said he would join us right away, and he walked a little way with Mr. Bothman, and then came up to the Temple with us.

Q. That is Lou Swarz?           A. Lou Swarz.

Q. Do you know where the Lettie Lee plant or factory is located?

A. Yes, sir. 719 South Los Angeles Street.

Q. Is that in a building by itself?

A. It is in a factory building, a 12 story factory building.

Q. By that do you mean there is more than one factory in that building?

A. Yes, sir.

Q. Do you know how many floors are in the building?           A. There is 12 floors.

Q. Do you know what floors Lettie Lee occupies?

A. Lettie Lee, with the cutters and where the main factory all is is up on the 12th floor. They have better than three- [75] quarters of the loft up there.

Q. What is that?

A. They have better than three-quarters of the loft up there.

(Testimony of Vito Cimarusti.)

Q. Do they occupy any other space in the building?

A. On the seventh floor, I understand they have a small space. I know they have a small space there.

Q. Have you ever been there?

A. On the seventh floor, no.

Q. The cutters, do they work on the twelfth floor?

A. Yes, we cutters worked on the twelfth floor.

Q. Will you give us a description of the area in which the cutters worked?

A. Well, we have a partition there about eight to ten feet tall, with a screen that runs the rest of the way up to the ceiling almost, and we are all inclosed in this partition, the cutters are. And that is an area, I imagine, about the width of this court room, and the tables are about ten yards long. That would be about 30 feet.

Q. It would be about 30 feet long?

A. That's right.

Q. And as wide as this court room?

A. True, and there is three sections of tables.

Q. Where are there three sections of tables?

A. There is three sections of tables in the cutting room. [76] You see, it is about the width of this court room.

Q. How long?           A. It is about——

Q. How far would you say it is? What is the distance?



(Testimony of Vito Cimarusti.)

A. I imagine that is about, I would say, roughly around 24 or 25 feet.

Q. Then what would you say would be, roughly, the distance of the length and breadth of the cutting room?

A. Well, the cutting room itself in length from the windows over to where the stock shelves are, I would say, is about 40 feet, 45 feet.

Q. About 40 or 45 feet?

A. 40 to 50 feet, to be more accurate.

Q. And about 25 feet wide, you say?

A. That's right.

Q. Does this partition——

A. (Continuing): Perhaps wider.

Q. Does this partition completely enclose the cutting space?

A. Well, from the end of the cutting tables on down to the windows, and, well, the cross section, and all, why, the partition is there and then there is a big shelf, a box like affair, where they keep threads and things, and then there is another table, and the stock room shelves to the left of the cutting tables. [77]

Q. Well, are there four walls around the cutting area? A. This partition also.

Q. Or is it open at one end?

A. It is, yes.

Q. It is open at one end. Is there anyone else that works behind that partition? I mean by that, between that and the rest of the factory?

A. Yes. There is the stock girl, Tony—I don't

(Testimony of Vito Cimarusti.)

know—Antoinette something or other, I don't know what her last name is.

Q. What are her duties, if you know?

A. Well, her duties are to get the materials for you and bring the cutters what orders they have, as they come to them.

Q. Does she do any cutting?

A. No, she doesn't do any cutting.

Q. Who else is in there?

A. Then there is the trimmers, as we call them.

Q. Do you know who they are?

A. Eunice, I don't know what her last name is, any Kathryn.

Q. Would that be Eunice Usher? Would that be one of them?

A. I imagine, Eunice Usher, yes.

Q. What does she do, if you know?

A. She is a sloper.

Q. What is a sloper? [78]

A. Well, if a dress has a pleated sleeve or a yoke that is embroidered, we would send it out in a square. Then when it came back from the pleaters or the *embroiders*, then she would take and lay her pattern on it, and mark it, and cut it to fit.

Q. What do you mean by "going out to the pleaters"?

A. Well, pleating is done outside of the factory by pleaters.

Q. That isn't done by Lettie Lee?

A. No, that isn't done by Lettie Lee.

(Testimony of Vito Cimarusti.)

Q. After you cut it, it would go to the pleaters outside of the factory?

A. No. Direct from us it would go to the as-sorters.

Q. To the assorters. From them would it go to the pleaters, do you know?

A. Why, I imagine it would.

Q. After it had been pleated at an outside plant, it then came back to the sloper? A. True.

Q. What would the sloper do then?

A. Then she would lay her pattern on it, she would lay the pieces for whatever style it would be, and would get the pattern of that particular style and lay it on there, mark around it, and cut it out to shape.

Q. What would she cut out?

A. If it was a sleeve, she would cut out a sleeve, or if it [79] was a yoke, a yoke, or whatever it was.

Q. Would she cut out the entire garment?

A. Just the sleeve. The cuffs, and everything else, would be cut by the cutter.

Q. You mean the cuffs would be joined later on by some operation? A. True.

Q. She would cut the sleeve?

A. Just the sleeve that is pleated, just the part that is pleated.

Q. What else would she do, if you know?

A. She cuts cotton and trim that went on the dress.

Q. What would she cut them for? What would she cut the cotton for?

(Testimony of Vito Cimarusti.)

A. For the padding for the shoulders, the shoulder pads.

Q. Now, what do you refer to when you say "trim"?

A. Well, belts, and inner linings, and, for instance, if it had a piece that was supposed to go into a bow, of a different material or color, she would cut that.

Q. What would she do with those things after she would cut them?

A. She would have an order slip to show where they would belong, and would take them back to the assorters and they would know what to do with it for that particular dress.

Q. The other girl you mentioned was Kathryn.  
[80]

A. She was a trimmer there, but she wasn't there at the time we walked out on strike?

Q. Was there anyone else?

A. Dorothy something or other.

Q. Dorothy. Do you know whether that is Dorothy Richard?

A. Yes, it is Dorothy Richard.

Q. You think that is her name.

A. I am pretty sure.

Q. What did Dorothy do?

A. She was a trimmer, and she was cutting cotton, and the junk, as we called it.

Q. Now, by cotton, you mean the padding that goes in the shoulders and inside the belts? Is that what you mean?

A. True.

(Testimony of Vito Cimarusti.)

Q. Did she do any sloping?

A. No sloping.

Q. Or any trimming?

A. Trimming, and cutting the inner linings, and things like that

Q. She did that? A. Yes.

Q. Are there any other persons employed behind that partition? A. The assorters.

Q. How many are there? [81]

A. Well, there is Sarah, Marie, Frances; about four of them.

Q. If I give you their last names, would you recall them? A. I think so.

Q. Was Sarah's name Giochetti? A. Yes.

Q. And Marie Chavez, C-h-a-v-e-z?

A. That's right.

Q. Frances Avila, A-v-i-l-a?

A. That's right.

Q. And Saloma Sesma?

A. I know her first name was Saloma, and that Sesma must go with the rest of that.

Q. You don't know about that?

A. No, I don't know about that.

Q. Do you know what an assorter does?

A. Her duty is to take the work, after the cutters get the work cut, wrap it together, and bundle it.

Q. Who wraps it?

A. The cutters cut the patterns separately and roll it up together.

(Testimony of Vito Cimarusti.)

Q. What do you mean by "patterns separately"?

A. Well, the different parts that go to a dress.

Q. And what do you do with that?

A. We take it and bring it over to the assorter, with the [82] order number and the size tickets.

Q. All the parts of the dress you cut, you put in a bundle; is that correct?

A. That's right.

Q. And take it to the assorter?

A. That's right.

Q. Do you know what she does with that?

A. She checks up for notches, and for punch holes, and to see whether the dresses were cut on the right side of the material, and whether the parts are all matched right, and she puts all the pieces that went together in the garment in this one dress, and then she would tie it up and put a size ticket on it. From there it would go to the operator.

Q. By that do you mean that she would take the pieces that you had cut, such a sleeves, waists, skirts, and belts, and she would pick out two sleeves, a waist, skirt, a belt and put that in a bundle; is that correct?

A. That's right.

Q. And she would do that for each garment you would cut?

A. True.

Q. What would she do with that bundle she made?

A. After she would know, through checking, and see that everything is there that would go to that one garment, she would take it and put it into a



(Testimony of Vito Cimarusti.)

rack there, that they have the forelady take and give the work out to the girl. [83]

Q. What do you mean by "give the work out to the girls"?

A. After the dresses were all assorted and checked, she would take and put a size ticket on it, and on there there is a style number and size, and whoever the dress is to go to, why, she would tie this up and they have a rack there with bins, and she would go and put these in there and tell the forelady about it, and then whenever the forelady was ready for that particular style to be sewed, she would come and get a bundle of one or two or three dresses, whatever she wanted to give to a particular operator, and they would sew it up.

Q. Now, is there anyone else employed behind that partition?      A. No, that's all.

Q. Does that partition completely shut off the cutters from the rest of the plant?

A. It cuts the cutters off from the rest of them. There is a door that leads off. It is not a swing door. It is just an open affair that we walk in and out of.

Q. Are the assorters between you and the door?

A. Yes, they are in the same room with us, but this door is over—we are over on the north end of the factory, and this wall is over facing towards the south.

Q. And is that where the assorters are located?

A. They are located to the east of the cutters.

Q. To the east of the cutters. Now, I believe

(Testimony of Vito Cimarusti.)

you said [84] this strike took place on July 24, 1941?      A. That's correct.

Q. Did you after that have any conversation with Mr. Bothman, after the one in the restaurant?

A. On the 24th, we didn't have a conversation with him, no.

Q. Did you after the 24th?

A. After the 24th. On the 26th I had a conversation with him. He called me at my home.

Q. Over the telephone?

A. Over the telephone.

Q. What was said at that time, and who said it?

A. Well, when he called he asked for me and my wife called me to the phone, and when I got there, I picked it up and answered it. He says, "Hello. Vito?"

I says, "Yes."

"This is Mr. Bothman," he says. "Well, what did you boys want to do this to me for? What did I do to you fellows? I treated you all right."

And I agreed with him, he treated us all right, but then he went on to say, "Why, those shysters up there, they can't do anything for you. They are just looking out for themselves." He says, "I am really surprised. The rest of the boys are working," and he says, "some of them are coming in Monday to work for me." He says, "I want you to come in."

I told him I didn't think it would be the proper thing [85] for me to do, because the reason why I joined the union was because 90 per cent of the

(Testimony of Vito Cimarusti.)

industry was union, and if I wanted a job, I wasn't going to work for him all my life, and if I wanted a job in the future, the only place I could go to was the union, and I would be out of luck; and it was a protection for us, and they were the only protection that the working man had. That's what I thought, and told him so.

Well, he said, "Think it over, Vito, if I were you, and let me know."

So that's all that was said that night.

Q. State whether or not anything was said about a contract.

A. Well, if he had to sign up a contract with the union——

Q. Is that what he said?

A. Yes, if he had to sign up with the union that night, he would close up, Lettie Lee would go to Texas and he would open another shop, or do something.

Q. Thereafter, did you have any conversation with Mr. Bothman?

A. Yes, down in the lobby of the building there, he saw me once.

Q. About how long after this telephone conversation?

A. I would say about a month later.

Q. Who was present at that time, if you recall.

A. I think just Mr. Bothman and I [86]

Q. What was said at that time, and who said it?

A. He says, "Don't be a damned fool. Go on up and go to work."

(Testimony of Vito Cimarusti.)

I says—I hated to say no right off the bat to his face, and yet at the same time, you know how you are in a situation like that—I just said, “I will think it over and let you know.” That is all that was said at that time, and I never let him know.

Q. Did you later have another conversation with him?

A. Then later Mr. Nick LaCaze met him in the lobby, who is a presser in the place.

Q. About when did that occur?

A. That happened about two or three weeks later; just about that time. Maybe a week later.

Q. Would that take it up into September?

A. That’s right.

Q. About what part of September?

A. About the middle.

Q. And you say this conversation took place where? A. In the lobby of the building also.

Q. Who was present at time?

A. Nick La Caze, myself and Mr. Bothman. Nick and I were having a coke in there, and Mr. Bothman came up and said, “Don’t be a damned fool. Go in and go to work.”

I told him, well, maybe Nick and I would be in that week [87] to see him, but we never did go in.

Q. Did you subsequently have another conversation with Mr. Bothman?

A. Then on a Saturday morning, about a week or two weeks, I don’t remember exactly how many days, later, but on a Saturday morning there on the picket line, there was Nick, Don Quinn, Nolan

(Testimony of Vito Cimarusti.)

Berteaux, and myself. We talked to Mr. Bothman, and he wanted us——

Q. Where?

A. We talked to him in front of the building, just at the entrance to the lobby of the building.

Q. Tell us what was said and who said it.

A. And he started to tell us about those shysters up there again, and he wouldn't have nothing to do with them, but then he says, "I want you fellows to come back to work."

We says, "Well, you will have to talk to the union."

He says, "Well, I want you fellows to come back."

Then we brought up about Lou Baliber and Joe Sardo, wanted to know if he wanted them back. He says, "No, I am talking to you as individuals. I am not going to talk to you in a group."

He says, "You Vito Cimarusti, I want you to come back and go to work right now."

In the meantime, there was a friend of his happened to be passing by, and he says, "Come here. I want you to be a [88] witness to this."

I think this was in October, about a month later than the meeting in the building there. He says, "I want you to be a witness to this."

He says, "You, Vito Cimarusti," and he had me pronounce my last name, "I am telling you as an individual, to come back to work."

And he says, "You, Nolan Berteaux, I am telling you, as an individual, to come back to work."

(Testimony of Vito Cimarusti.)

“You, Nick La Caze, I am telling you, as an individual, to come back to work.”

“You, Don Quinn, I am telling you, as an individual, to come back to work.”

We says, “How about the others, Angelo, and Joe and Louis?”

He says, Well, Angelo and Louis are a couple of stinkers, and Joe is an ex-convict. Joe and Louis are both trouble makers”—I take that back—“Louis and Angelo are just trouble makers.”

Q. Louis and Angelo are what?

A. Are trouble makers.

Q. Did you make any reply to that?

A. Well, we said, “The only time we would come back would be when we would all come back as a group, and we would have the union behind us.”

[89]

Q. Following that, did you have any more conversations with Mr. Bothman? A. No.

Q. Did you have a conversation with Lou Swartz later?

A. Yes. He called me at my home, Lou Swartz did.

Q. About when did that take place?

A. Oh, that happened in October some time, about—

Q. Was that after you had the meeting with, or you had this conversation with Mr. Bothman?

A. Yes. That was about two or three weeks later.

Q. About two or three weeks later. Was it in



(Testimony of Vito Cimarusti.)

the middle, or fore part or latter part of October, would you say?

A. I would say it was between the middle and the latter part of October.

Q. Of October. Where did the conversation take place?

A. It took place over the phone. He called me at my home.

Q. What was said and who said it?

Mr. Shapiro: I am going to object to any conversations between the witness and Mr. Swartz on the ground that the authority of Mr. Swartz has not been shown, and no proper foundation laid.

Trial Examiner Erickson: Overruled.

The Witness: Mr. Swartz called at my home there, and I was ready, getting ready to go out when my wife called me to the phone. I answered. "Vito?" he says. [90]

"Yes."

"This is Lou," and by "Lou" he meant Lou Swartz.

I says, "Yes."

He said, "Did Don Quinn talk to you?"

I said, "Yes."

He said, "Did he tell you to come back to work, that I wanted you to come back to work?"

I says, "Yes."

He says, "What did you tell him?"

"Oh," I says, "oh, we didn't want to come back to work."

He says, "Well, I think, Vito, you are a fool for

(Testimony of Vito Cimarusti.)

not coming back to work," he says, "because them guys are not going to do anything for you."

By "them guys" he meant the union, the representatives in the union.

He says, "They are going to dump you right away, and you are going to be left holding the sack."

I says, "Well, Lou, I am stringing along with the union. They are the only chance we have, and they are the only protection we have, and that's our best bet."

Then he went on to tell me why he didn't stay with us. He says, "I am getting so much a week and a bonus." He says, "I have all to lose and nothing to gain by it."

I said I figured he was a chump for coming down in the first place. [91]

He said, "You better come back to work. The M & M is protecting us," he says.

Q. Who is the "M & M"?

A. The Merchants and Manufacturers. He says, "They are joined up 100 per cent," and he says, "I will tell you another thing, some of the union shops are signed up with the M & M too."

I says, "I would rather stick with the union than play ball with them."

He says, "I would think it over, if I were you. Before Mr. Bothman would sign a contract there, he would close up the shop, Lettie Lee will go to Texas and run the ranch, and he will go into something else."

Q. Anything further at that time?

(Testimony of Vito Cimarusti.)

A. Well, he told me about all this protection that I would get from the M & M.

Q. What did he say about that?

A. He said, "You will have a guard with you." He says, "You will be at home all the time." He says, "They will take you home and bring you back," and just tried to make me feel secure in going back to work.

Well, I didn't like to go to work under those conditions.

Q. Did you ever after that time have a conversation with Mr. Swartz?

A. No. Before I went out that night, I told my mother and [92] wife, I went to school——

Q. Never mind what you told your mother and wife. Did you later have a conversation with Mr. Bothman?      A. No, I didn't.

Mr. Nicoson: That is all. You may cross examine.

Trial Examiner Erickson: We will recess for ten minutes.

(A ten minute recess was taken.)

Trial Examiner Erickson: The proceeding will come to order.

Mr. Shapiro: Your Honor, at this time I am going to ask that the Board make an order excluding the witnesses from the court room during the time that the testimony is being elicited. I appreciate it is entirely discretionary with the Court, but I do feel, and possibly I should have made the motion earlier, that when the witness is on the stand

(Testimony of Vito Cimarusti.)

relating what happened and every member on the picket line is in the court room listening to his testimony, that there isn't any question but what their memories might be refreshed or they might be otherwise assisted when their time comes to give testimony, and I think in the exercise of your Honor's discretion such an order should be made.

Mr. Sokol: May I say a word?

Trial Examiner Erickson: Yes.

Mr. Sokol: Mr. Examiner, I am glad Mr. Shapiro gave you [93] the law in California, which makes it purely discretionary with the court, and the courts have uniformly held that where the proceedings have advanced to a stage where the other witnesses in the court room have heard the testimony, then it would be an idle act; and, unquestionably, Mr. Shapiro has waited until this witness has fully testified on direct, and if there was any harm done from his point of view, it is already done. I don't see any. And, furthermore, your Honor should take into account the facilities here, which make it somewhat inconvenient. We don't have adjacent court rooms in which they can sit.

Trial Examiner Erickson: The motion will be denied for the present.

Does the union have any questions?

Mr. Sokol: No questions.

Trial Examiner Erickson: Cross examine, Mr. Shapiro.

(Testimony of Vito Cimarusti.)

Cross Examination

By Mr. Shapiro:

Q. Now, you pronounce your name Cimarusti?

A. That's right.

Q. When you applied for employment at Lettie Lee some time in February, 1941, did you talk to anyone other than Mr. Bothman?

A. I didn't apply in February. I applied in the preceding year, about July or August. I was called to work there in February. I went to work there in February. [94]

Q. I see. Then when you applied for employment in July, that would be 1940, wouldn't it?

A. That's right.

Q. Did you talk to anyone other than Mr. Bothman? A. No, sir.

Q. And you say Mr. Bothman recognized you?

A. That's right.

Q. Where had you known Mr. Bothman previously?

A. When he was with Bothman Brothers concern. He had his own concern over in the Harris Newmark Building.

Q. Did you work for him then?

A. No, but the concern I was working for at that time did work for Mr. Bothman.

Q. I see. You say that Mr. Bothman asked you if you belonged to a union? A. Yes, sir.

Q. Did he ask you if you belonged to any particular union?

(Testimony of Vito Cimarusti.)

A. He asked me if I belonged to that Cutters Union.

Q. You didn't belong to it, did you?

A. Not at that time.

Q. You told him that, didn't you?

A. I did.

Q. Did Mr. Bothman say anything at that time about the union?

A. No, not at that time. [95]

Q. He didn't tell you that if you did belong to a union he wouldn't hire you, did he?

A. No, he didn't say that.

Q. Now, you have referred in your testimony repeatedly to a Mr. Swartz. You call him Lou Swartz?

A. That's right.

Q. He is a cutter, isn't he?

A. He is the pattern maker and general manager. He hands out the work up at Lettie Lee.

Q. What do you mean, the general manager?

A. Well, if you want to know anything, Lou is the one you would ask.

Q. You mean he was the head of the cutting department?

A. That's right.

Q. He wasn't the general manager of Lettie Lee?

A. General manager of the cutting department is what I meant when I said that.

Q. Well, it might be more appropriate to refer to him as the foreman of the cutting department; isn't that right?



(Testimony of Vito Cimarusti.)

Mr. Sokol: That is objected to as leading and suggestive.

Trial Examiner Erickson: He may answer.

The Witness: What was the question again?

Q. (By Mr. Shapiro) It might be more appropriate to refer to him as the foreman of the cutting room; isn't that so? A. True. [96]

Q. He isn't the general manager of Lettie Lee, is he?

A. Well, every time there is anything came up, the foreladies and everyone would go to Lou.

Q. That is with respect to the performance of your work? A. Of the work.

Q. He was in charge of the cutters that were operating in that department; isn't that so?

A. That's right.

Q. Now, on June 11, 1941, when you say there was a meeting in the cutting room at about 4:30, how many men were there present?

A. Including Mr. Bothman, nine.

Q. Will you name those men?

A. Lou Swartz, Mort Litwin, Joe Sardo, Louis Baliber, Angelo Castella, Don Quinn, Nolan Berteaux, and myself. Mr. Bothman made the ninth person.

Q. How many cutters were there on that date?

A. Seven cutters and Lou.

Q. Mr. Swartz worked, didn't he? He cut right along with the rest of you?

A. No. He just made the patterns.

Q. And the rest of you—

(Testimony of Vito Cimarusti.)

A. The rest of us did the cutting.

Q. —did the cutting. On June 11th how many persons were there employed within this area that is enclosed by the [97] partition that you have referred to?

A. On June 11th I didn't work, and I couldn't tell you, but I can tell you about June the 12th.

Q. How many were there on June 12th?

A. All the cutters; that is, all the fellows I just named, and myself, and there was Eunice, and the assorters; not all of them. I don't think they were all there at that time. And Tony, the stock girl.

Q. As a matter of fact, there were 15 people employed in that unit at that time, were there not?

Mr. Nicoson: We object to that. He calls it a unit. If he wants to talk about the area, all right.

Trial Examiner Erickson: You mean in that room?

Mr. Shapiro: In that room, in that area.

The Witness: Approximately.

Q. (By Mr. Shapiro) Do you know how many persons are employed by Lettie Lee?

Mr. Sokol: As of the present time? Is that what you are asking?

Mr. Shapiro: On June 12th.

The Witness: Well, if some were off, I can't tell you definitely, but I know the capacity. It is around 120, 121.

Q. (By Mr. Shapiro) Approximately 120; is that right? A. Yes.

(Testimony of Vito Cimarusti.)

Q. Now, on June 11, 1941, when you attended this meeting [98] that was called in the cutting room at about 4:30, did you know the purpose of that meeting before you went in to it?

A. Before I came into it, yes, Lou Swartz told me over the phone.

Q. What did he tell you?

A. He said the boys had a meeting with Mr. Bothman in regard to a raise, and he wanted me in on it.

Q. He told you they had a meeting?

A. No, they were going to have a meeting.

Q. Had there been any discussion before June 11th about a raise, that you knew of?

A. No, not that I knew of before I was off.

Q. How long had you been off?

A. I would say about two weeks, three weeks, something like that.

Q. Well, there was no discussion about wages or an increase of wages, that you knew of?

A. Prior to that things were said, but then they didn't go into details with me, and then that day I heard about it.

Q. Now, what date did you sign with the union?

A. July the 21st.

Q. When you got to this meeting on June 11th, you say there were about eight men there; is that correct? You said that there were nine men, including Mr. Bothman, present?

A. Yes. [99]

Q. That was on June 11th?

A. That's right.

(Testimony of Vito Cimarusti.)

Q. Did Mr. Bothman handle the meeting? Did he seem to be in charge? A. Yes.

Q. He did all the talking?

A. He asked for questions to be answered, and they were answered.

Q. What did Mr. Swartz do?

A. He asked a couple questions there.

Q. What did he have to say?

A. Well, they—he just seemed to side in with Mr. Bothman in collaborating the fellows' feelings towards the union, that they didn't belong to the union, and all that.

Q. Well, at that time none of you did belong to the union?

A. I didn't. I don't know about the rest.

Q. Had you told anybody you intended to join the union? A. I never committed myself.

Q. Had anyone asked you if you were going to join the union? A. Yes.

Q. Who?

A. The fellows around with those pamphlets being passed out, and the cutters that knew me asked me if I would join. I would never commit myself.

Q. Other union members, you mean? [100]

A. Other union members.

Q. Mr. Bothman hadn't asked you if you were going to join the union?

A. That night he did. Not me in particular, but just the group.

Q. What did he say about that?

A. "First of all," he says, "I want to know how

(Testimony of Vito Cimarusti.)

many of you belong to that union or intend to join that union." He got no answer.

Q. He got no answer at all? A. True.

Q. You didn't say anything?

A. I didn't say a word.

Q. Did anyone else say anything?

A. Not that I remember.

Q. You mean to say that all the cutters that were assembled there didn't say a word all through the proceeding?

Mr. Sokol: He didn't say that.

Mr. Shapiro: What is your answer?

Mr. Sokol: That is objected to. It is already in the record.

Trial Examiner Erickson: Overruled.

The Witness: No one said a thing to him.

Q. (By Mr. Shapiro) Not a word?

A. Just smiled, and sort of kept to ourselves. [101]

Q. How long did the meeting last?

A. About 20 minutes to a half hour.

Q. Now, do you know whether or not any of the cutters, or anyone speaking for the cutters, had previously approached Mr. Bothman with respect to a raise in salary?

A. You mean before June the 11th?

Q. Before June 11th? A. I don't know.

Q. You didn't, did you? A. No, I didn't.

Q. Was this offer to increase your wages something that just came out of the clear sky, so far as you knew? A. Personally, yes.

(Testimony of Vito Cimarusti.)

Q. You did not have any objection to an increase in wages, of course?

A. Of course not.

Q. And you were getting \$1.00 an hour at that time?

A. That's right.

Q. What was the proposal that Mr. Bothman made with reference to an increase in wages?

A. The proposal was that he would either give us the raise, or we could take overtime which would more than make up for the raise.

Q. What did you say, if anything.

A. He just wanted us to think it over and give him an [102] answer later. We none of us committed ourselves that particular night. We just wanted to think it over and talk among ourselves, and see what we wanted.

Q. Did you know there was going to be a strike?

A. Through pamphlets to that effect, yes.

Q. So that when Mr. Bothman told you there was going to be a strike it wasn't news to you and you already knew about it, didn't you?

A. Well, he knew about it just like I did, through those pamphlets, I think. I didn't know anything other than that.

Q. What else did Mr. Bothman say to you regarding joining the union, if he said anything?

A. He said as far as those shysters are concerned, he wouldn't have anything to do with them.

Q. Did he say anything about the employees, or what might happen to them if they joined the union?



(Testimony of Vito Cimarusti.)

A. He didn't say a thing there.

Q. He didn't say that you couldn't join the union, did he?

A. Well, he gave us to understand the laws of the land made it compulsory for him to do by what the majority of the cutters wanted.

Q. What did he say about that?

A. Well, we didn't go into a discussion.

Q. How did he give you to understand that?

A. Well, he left the general impression. [103]

Q. He didn't tell you that if you joined the union that you would lose your jobs, did he?

A. Well——

Q. Just answer that "yes" or "no."

A. No.

Q. He didn't tell you——

Mr. Sokol: You may explain your answer, if you so desire.

The Witness: The reason for that is that if he said that, it would be belittling his own intelligence, because, after all, we are not babies, and he would come right out and say a thing like that. He would be committing himself to a point of prejudice against labor.

Q. (By Mr. Shapiro) But he never made a statement to you that if you joined the union you couldn't hold your job at Lettie Lee, did he?

Mr. Nicoson: We object to that as repetitious. He has already answered that.

Trial Examiner Erickson: Sustained.

(Testimony of Vito Cimarusti.)

Q. (By Mr. Shapiro) Now, when was the next meeting that you had with Mr. Bothman, after the meeting of June 11th?

A. On Friday night, June 13th.

Q. Who was presnt at that meeting?

A. The same fellows I mentioned a while ago, and Mr. Bothman.

Q. Had you discussed between June 11th and June 13th the question of the wage increase? [104]

A. You mean amongst the fellows?

Q. Amongst the fellows. A. Yes, sir.

Q. Had you come to a decision on that?

A. Yes, sir.

Q. What had you decided?

A. We decided we wanted the raise.

Q. Who, other than you fellows, was present at the meeting on June 13th?

A. Just the fellows and Mr. Bothman.

Q. Was Mr. Swartz there?

A. Well, those are the fellows, yes. Swartz, Litwin, Sardo, Baliber, Castella, Don Quinn, Nolan Berteaux and myself.

Q. Who spoke first at the meeting?

A. Mr. Bothman came in.

Q. What did he say?

A. He said, "Well, fellows, I understand you want the raise. You want to know how much. It would be 15 cents an hour. You want to know when it starts. Immediately."

And he says, "I hope this satifies you fellows, and if necessary in the future, if you want more, why,

(Testimony of Vito Cimarusti.)

we can discuss it, as long as we work harmoniously together and have nothing to do with outsiders.”

And Lou Swartz spoke up and says, “I can vouch for these [105] fellows, Mr. Bothman.”

Q. What else was said, if anything?

A. That’s all.

Mr. Sokol: When you said “fellows” did you mean the cutters?

The Witness: The cutters only.

Q. (By Mr. Shapiro) Did Mr. Bothman say anything about your joining or not joining the union?

A. Not that night, no.

Q. Mr. Bothman didn’t tell you that this wage increase was given to you so that you would not join the union, did he?

A. He felt secure that if we got the raise——

Q. Just a moment.

Mr. Sokol: Let him complete the answer now.

Mr. Nicoson: Let him complete his answer.

Mr. Shapiro: The witness can’t answer a question by saying——

Trial Examiner Erickson: Just a moment. He started out by saying, “he felt.”

The Witness: He felt secure——

Mr. Nicoson: “He felt secure” is a quotation.

Trial Examiner Erickson: Proceed.

The Witness: He felt secure in giving us the raise that we wouldn’t have anything to do with the union.

Q. (By Mr. Shapiro) Who said that? [106]

(Testimony of Vito Cimarusti.)

A. He didn't say that, but that is the impression he left with us fellows.

Mr. Shapiro: I move to strike the answer on the ground it calls for a conclusion of the witness.

Trial Examiner Erickson: It may be stricken.

Q. (By Mr. Shapiro) Did Mr. Bothman at any time, either at the meeting on June 11th or at the meeting on June 13th, tell you or any of the others present that if you did not join the union he would give you a wage increase? And answer that "yes" or "no," please. A. No.

Q. How soon after you obtained your wage increase was it that you commenced feeling some dissatisfaction with your conditions of employment?

Mr. Nicoson: I object to that. There is nothing in the record that shows any dissatisfaction on his part.

Trial Examiner Erickson: Objection sustained.

Q. (By Mr. Shapiro) Now, this partition that you have testified about, it doesn't extend from the floor to the ceiling, does it? A. No.

Q. As a matter of fact, you can see over the partition, can't you?

A. If you jump up on the tables and stand up on your toes.

Q. How high is the partition? [107]

A. About ten feet, twelve feet, something like that.

Q. Do you know how high the ceiling is in that room?

A. About the height of this ceiling.

(Testimony of Vito Cimarusti.)

Q. Well, would you say the partition goes up just about as high as the paneling in this room?

A. Yes, I would say the partition was that high, and there is a screen wire goes up the rest of the way.

Q. Now, the enclosure formed by the partition is bounded on two sides, is it not, by the walls of the building?        A. True.

Q. And the partition is just one length then; isn't that correct?        A. It is one length, yes.

Q. One wall. It forms the south wall of that particular portion of the building; is that right?

A. That's right.

Q. And one end is open?

A. Where the partition leaves off, there is a little opening there, and then there is the rest of the paraphernalia around there like the bins, and things. There is a counter there.

Q. As to the work that you perform as a cutter, will you tell me this: Do you finish or complete anything in the operation that you perform?

A. A lot of times I did, yes.

Q. Well, what, for instance? [108]

A. I cut the complete garment, trim and all.

Q. Well, I understand that, but still it would be an unfinished garment, wouldn't it?

A. I didn't sew it, no, if that is what you mean.

Q. It would have to be assembled and have to be put together, and have to go through the various

(Testimony of Vito Cimarusti.)

other operations necessary before it was a completed garment; is that right?      A. Yes.

Q. And the same is true of every other cutter working there; isn't that so?      A. True.

Q. No one of you worked on any particular garment to the point where it was completed?

A. As far as cutting was concerned, it was completed.

Q. But not so far as the finished garment is concerned?      A. True.

Q. After the garment is cut, what would remain to be done on it before it is completed?

A. Sewing, finishing, pressing.

Q. As a matter of fact, your work of cutting out the garment is one of the very first stages in the manufacture of the dress; isn't that so?

A. True.

Q. Now, you follow a pattern when you cut a garment, don't you? [109]

A. Yes, sir.

Q. Did you make any of the patterns?

A. When there weren't any that were made, why, if it was necessary, I would take care of it.

Q. Customarily and ordinarily, who made the patterns?

A. Mort Litwin. He made the markers. The patterns for the garments were made by Lou Swartz. The markers, that is making the markings on paper, were made by Mort Litwin.

Q. Now, for my edification will you explain the



(Testimony of Vito Cimarusti.)

difference between a pattern and a marker? Which is made first?

A. The pattern is made first.

Q. What is that made of?

A. That is made of paper. It is made for the different parts that go into the dress, out of that piece of paper there, and then after they are all made, then they make a marker out of these patterns, the different sizes.

Q. Just what is a marker? Explain that.

Mr. Sokol: If I am not out of line, Mr. Shapiro, I would like to make the suggestion that no doubt Mr. Bothman will take the stand and give the facts from his point of view.

Mr. Nicoson: I think the witness should be permitted to answer.

Trial Examiner Erickson: The objection is overruled.

The Witness: The marker is made by this Mort Litwin. That was his job. As he put these patterns on and lays them [110] out to take the least amount of yardage, he marks them in and would have carbon markers underneath, which made about six markers at a time, and he would have them all rolled out. And if he was out at any time, we would have to make our own markers on a single sheet of paper.

Q. (By Mr. Shapiro): When you are ready to cut a dress, will you explain exactly what you do with reference to the use of the marker, the material, and any other operations that you perform?

(Testimony of Vito Cimarusti.)

A. Well, if we had a certain style to cut, we would have our orders there to go by, and say, for instance, the last style that I cut there was 705, it was sizes from 12 to 20. Well, I would start off with the largest size and work my way down to the 12.

For those two dresses of size 20, I would lay out my bottom paper, lay out the cloth, whatever was called for on the order, and the colors, and lay my marker on that, and weight it down so that the marker wouldn't shift, and cut it out.

Q. Either with your hand shears—

A. With my hand shears, mostly.

Q. And if it was a larger thickness of material, you would have used the power shears?

A. Used the machine, that's right.

Q. But what you would do is that you would put the marker [111] down on the cloth and cut around it?

A. That's right.

Q. And that is what your cutting operations consist of?

A. Yes.

Q. Now, will you explain what Eunice Usher's work consisted of?

A. Her work was sloping.

Q. Just tell us what she did.

A. Well, there are some styles there that had a pleated sleeve on it, and we would send out a block of material, say a sleeve 20 inches by 17 or 18 long, well, we would send out this block of material and they would pleat it, and when it came back it would still be in a square, and she would

(Testimony of Vito Cimarusti.)

lay her sleeve pattern on it, mark around it, and cut the sleeve out.

Q. In other words, she did exactly the same thing that you did?

A. No, she just did sloping.

Q. Except you call it sloping, and she did it on material that had been pleated?

A. That's right.

Q. That's right, isn't it?

A. She didn't do the same thing we did, just cutting out a piece of material. If it was spoiled, it could be replaced, whereas if we spoiled anything, it would cost us. [112]

Q. How do you know that if Eunice spoiled a piece of material it wasn't chargeable to her?

A. I have never heard anything told her, whereas it was told to me directly.

Q. So that the only difference in what she did and what you did was that if she spoiled something, she didn't pay for it, and if you spoiled something, you had to pay for it?

A. And a lot of other things she did there—or, that the cutters did, that she couldn't do.

Q. Isn't this true, that in your work you took the marker, you laid it on the cloth and you cut around the marker? That is what your work consisted of; isn't that right? A. That's right.

Q. In her work she took the material after it had been sent out to some independent concern and been pleated, and you say it was in the square, and you mean by that still in one large sheet of mate-

(Testimony of Vito Cimarusti.)

rial, and she would lay the pattern on, mark it on top of that, and she would cut around it; is that right?

A. She didn't lay the marker. She would just get the pattern and mark around it, and probably would be a half a day cutting out one pattern.

Q. But she marked out what was to be cut, and she proceeded to cut it, didn't she?

A. She would proceed to cut after Lou had straightened her [113] out on a lot of things; Mr. Swartz.

Q. Why did Lou Swartz have to straighten her out?

A. Because if it had to be cut on the grain, or on the bias, she had to get her information from him, whereas we wouldn't have to.

Q. Isn't it true that the markers that Mr. Litwin made, which you followed, indicated right on the markers how they were to be laid with reference to the grain?

A. Yes, the markers had to have an arrow on them.

Q. And you followed those directions or instructions, as indicated on the marker; is that right?

A. That's right.

Q. And Mr. Swartz, you say, would explain to Miss Usher which way to lay the pattern and how the grain was to run; is that right?

A. That's right.

Q. Then she would cut out the pattern?

A. That's right.

(Testimony of Vito Cimarusti.)

Q. What else did Miss Usher do besides this work?

A. She cut cotton shoulder pads, inner linings for belts, and jabots, and things like that.

Q. Will you explain how she performed those respective operations?

A. Well, the cotton, if it was a stock order, why, she would lay up cotton about four or five inches high and use [114] the cutting machine, and if anything was spoiled, there wouldn't be a lot of money involved, because it was just a small piece of cotton.

Q. Did she use the same type of cutting machine that you used?      A. That's right.

Q. Did she use a marker?

A. Well, we would mark our own cotton padding. We would make our own marker.

Q. What would you mark with?

A. With chalk.

Q. And she would cut around the chalk lines where you would mark; is that right?

A. That's right.

Q. What else did Miss Usher do?

A. I told you everything else.

Q. Have you told us everything that Miss Usher did?      A. That's right, I did.

Q. She didn't do any other kind of work then, as I understand your testimony, other than cutting this material, either the pleated material, or the cotton, or the padding or other materials that you last referred to; is that correct?

(Testimony of Vito Cimarusti.)

A. That's right.

Q. Now, was there anyone else in the area enclosed by this partition that did the same kind of work as Eunice Usher? [115]

A. This Dorothy cut trim, but she didn't do the sloping, because she didn't know anything about sloping.

Q. That is Dorothy Richard?

A. That's right.

Q. What do you mean by "cut trim"?

A. Well, like the cotton padding, if there was one or two plies to be cut, she would cut them with shears; or belt linings, or general trim, like inner linings.

Q. And would she use a marker?

A. No. She would use her own patterns, and work over them, and ask questions on how to do it.

Q. All of these various parts of the dress that were being cut out either by you gentlemen, who were cutters, or by Miss Richard or Miss Usher, all went into the finished product, did they not?

A. True.

Q. And the pads and the trim, and everything else, had to be cut out, didn't it? A. Yes.

Q. I assume that you would mark out for Miss Richard what you wanted cut, and how you wanted it cut; isn't that right? A. True.

Q. Or would she use her own judgment about those things?

A. Sometimes she would use her own judgment,



(Testimony of Vito Cimarusti.)

but most of the times we would tell her how we wanted it. [116]

Q. What did she use in cutting?

A. Shears.

Q. She never used the power shears?

A. I have never seen her use them.

Q. Outside of Dorothy Richard and Eunice Usher, what other ladies in that department performed any kind of cutting operations?

A. That's all.

Q. Did you know a Kathryn Lembke?

A. Kathryn Lembke was there before I got laid off, but after I came back I didn't see her any more. That was on June 11th. Prior to that she was there. When I came back on June 12th to work, she wasn't there.

Q. Did you ever work there when Miss Lembke was working?      A. Yes.

Q. What were her duties?

A. She would cut trim.

Q. The same as Miss Usher?

A. The same as Miss Usher, yes. Her duties were just about the same as Miss Usher's.

Q. So, in brief, you could summarize what she did and how she did it by referring us to your——

A. Testimony.

Q. ——testimony concerning Miss Usher; is that right?      A. That's right. [117]

Q. Now, what other ladies were there in that department?      A. The assorters.

(Testimony of Vito Cimarusti.)

Mr. Nicoson: I think I will object to the use of the word "department."

Mr. Shapiro: All right. In that area.

The Witness: The assorters.

Q. (By Mr. Shapiro): Are they also known as bundlers? A. Assorters or bundlers, yes.

Q. Were there any other ladies who performed any cutting operations of any kind, other than Miss Lembke, Miss Richard and Miss Usher?

A. No.

Q. Do you know whether or not women are eligible to membership in the union?

A. In the union?

Q. Yes, in the Cutters Local?

A. If they are cutters, yes.

Mr. Sokol: I will object to that, your Honor. He would not be qualified to testify to that.

Mr. Shapiro: He is a member of the union.

Trial Examiner Erickson: He may give his best information.

Mr. Shapiro: Pardon me?

Trial Examiner Erickson: I said he may give his best information.

Q. (By Mr. Shapiro): What is your best information? [118]

A. I said if the woman is a cutter, she is eligible for Local 84, the Cutters Union.

Q. Do you know any women cutters who are members of Local 84? A. No, I don't.

Q. Now, will you describe the duties of the assorters or bundlers?

(Testimony of Vito Cimarusti.)

A. A cutter would cut the work out and the different parts to the garment are rolled up into a bundle, with the size tickets and the order, when it was completed, and take it over to the assorter. Usually, we would give it to Sarah, I don't know what her last name is, but she is the head assorter there, give it to her, and tell her what order it is. And she would say, "O. K." and that was all there was to it.

Q. What would she do with it?

A. She would take and sort it out to see if all the parts were together, were paired, and to see the notches were all right and punch holes were all right, and the trim was all there. And she would tie it up into a complete assembly there, what was supposed to be together there, and she would put it in the bins for the forelady to give out.

Q. Did she also include in this bundle the work that had been done by Miss Richard, Miss Usher and Miss Lembke? Would that be a part of the bundle?

A. That is what I said. She put the trim in too. [119]

Q. I see. Then she would check it to see that it was cut according to the pattern or the marker and that it was in position to be assembled; is that right?

A. Yes.

Q. Then she would send it to the proper department?

A. That's right.

Q. Now, you say that is what Sarah did. You refer to Sarah——

(Testimony of Vito Cimarusti.)

Mr. Shapiro: Do you know how to pronounce that name?

Mr. Nicoson: Giochetti, I think it is.

Q. (By Mr. Shapiro): —Giochetti? Is that who it is? A. Yes.

Q. What did the other ladies do? What were their duties?

A. I said I gave them to Sarah, because she was the head cutter—the head assorter, rather, and she would give it to the girls as they needed it. Their work was the same.

Q. In other words, she was more or less in charge of the other three ladies?

A. That's right.

Q. And she would take the work and parcel it out to the others? A. That's right.

Q. But that is all their work consisted of, to see that the material was cut properly and laid out properly, so that it could go to the next department in the manufacture of the dress; is that right? [120]

A. That's right.

Q. Did these ladies do anything else besides these particular duties you have told us about?

A. Not that I know of.

Q. Now, were there any other employees within this area enclosed by the partition and the two walls of the building, other than the cutters, the men to whom you have previously referred to by name, the three ladies, Miss Lembke, Miss Richard and Miss Usher, and the four ladies who did the bundling or assembling?

(Testimony of Vito Cimarusti.)

Eunice was there,—when Kathryn was there, Dolly or Dorothy wasn't there. At the time Dorothy was there, Kathryn wasn't there.

Q. All right. Then that would limit it to 15 persons at any one time; is that correct?

A. That's right.

Q. How many times has Mr. Bothman asked you to come back to work?

A. Every time I got laid off I was called back. I don't know whether Mr. Bothman—you mean after the strike?

Q. After the strike.

A. Altogether, about four times.

Q. When was the last time that he requested you to come back to work? [123]

A. On that Saturday morning in October, I think it was, when he approached the other three fellows.

Q. That would be some time, I believe you said, between the middle and the end of October?

A. That's right.

Q. 1941? A. Yes.

Q. And he asked you altogether about four times to come back to work? A. That's right.

Q. On this last occasion when he asked you to come back to work, whom else did he ask to come back?

A. Don Quinn, Nolan Berteaux and Nick La Caze.

Q. Where was Joe Sardo?

A. He wasn't there.

(Testimony of Vito Cimarusti.)

Q. When he asked you four to come back?

A. He wasn't there.

Q. Who else was there?

A. Just us four fellows, and this witness friend of his that he called over to witness it.

Q. He wasn't a cutter, was he?

A. I don't know who the guy was. I never had seen him before.

Q. What I meant by my question: What cutters of Lettie Lee were there present at that time when Mr. Bothman asked you to [124] come back to work?

A. Nolan Berteaux, Don Quinn and myself.

Q. Three of you?

A. Nick La Caze was there, but he is a presser.

Q. I see. He asked all three of you to come back to work?

A. All four of us.

Q. All four of you?

A. Yes.

Q. And none of you went back?

A. No.

Q. How did the question of Joe Sardo's coming back to work or not coming back to work come up?

A. Well, we asked if he wanted Louis and Angelo—that is Louis Baliber and Angelo Castella back, and Joe Sardo. And he said so far as they are concerned, two of them were trouble makers and the other fellow he didn't want to have anything to do with.

Q. Who was the other fellow?

A. Joe Sardo.

Q. Did he say why he didn't want to have anything to do with him?



(Testimony of Vito Cimarusti.)

A. He was an ex-convict.

Q. Did Mr. Bothman ever tell you that the only way he would take you back or allow you to come back to work would be if you severed your connection with the union? [125]

A. He told me to come back to work all the time, but he never did say anything like that. It would be understood I would be severed from the union.

Q. But he never said anything like that?

A. He wouldn't have anything to do with the union.

Q. Pardon me?

A. He wouldn't have anything to do with the union, and that's the only way I would go back to work.

Q. How many times did you talk to Lou Swartz about coming back to work?      A. Once.

Q. When was that?

A. The night he called me up, in October.

Q. In October?

A. October or November, after that last talk with Mr. Bothman, Lou Swartz called me up.

Q. Now, what did Mr. Swartz have to say about Mr. Bothman during the course of his conversation with you?

A. Mr. Bothman would never sign up with the union, would have nothing to do with them; before he would sign up with the union, he would close his factory, that Lettie Lee would go to Texas, and he would go into something else.

(Testimony of Vito Cimarusti.)

Q. Mr. Swartz never did go out on strike, did he?

A. He was down the first two days of the strike.

Q. Then he went back? [126]

A. Then he went back.

Q. Did Mort Litwin go out on strike?

A. Mort Litwin was down the first two days, and Saturday. He was down Saturday morning.

Q. You said that both of them went out and stayed out two days?

A. Lou was down both the two days. I saw him down on the picket line and up at the Labor Temple both days, or at the cafeteria over there, I mean.

Q. Lou Swartz? A. Yes.

Q. You saw him on the picket line?

A. Not on the picket line, but at the cafeteria and at the Labor Temple.

Q. You never saw him on the picket line?

A. No.

Q. You don't know whether or not he left his work or not?

A. He left the impression. He told us he left, he was with us.

Q. How about Mort Litwin? Did you ever see him on the picket line?

A. Mort Litwin was with us in the cafeteria and at the Labor Temple, and Saturday morning he came to the Labor Temple also.

Q. But you didn't see him in the picket line, did you? [127] A. No.

Q. Now, on these several occasions when Mr.

(Testimony of Vito Cimarusti.)

Bothman asked you to come back to work, he knew, of course, that you had joined the union, didn't he?

A. Yes, he knew it. He saw me on the picket line numerous times.

Mr. Shapiro: That is all.

### Redirect Examination

Q. (By Mr. Nicoson) When you were talking about this picket line, in answer to Mr. Shapiro's question a while ago, in the first two days of the strike do you know whether or not any of the cutters of Lettie Lee actually picketed those two days?

A. No, I don't.

Q. You don't know. Did you?

A. I didn't.

Q. You did not. Now, in answer to Mr. Shapiro's questions, I think you testified that in all Mr. Bothman told you to come back to work about four times during the course of the strike, or after the strike had begun. Is that correct?

A. That's right.

Q. Did he ever at any time say to you or indicate to you in any way that it was all right for all six of the cutters to come back to work?

A. No, he didn't. [128]

Q. Did he say anything to the contrary?

A. He wouldn't take the two trouble makers and Joe Sardo back.

Q. Did he say in that connection anything with reference to the union?

A. He wouldn't have anything to do with the union.

(Testimony of Vito Cimarusti.)

Q. Now, in respect to Dorothy Richard, when was it you were laid off in that period? Around about June, or May?

A. I think I was laid off about the last week or the week prior to the last in May. I came back in June.

Q. At that time was Kathryn Lembke working there? A. No, she wasn't.

Q. She wasn't there? A. No.

Q. Dorothy Richard was there?

A. Dorothy Richard was hired two or three days later.

Q. When did Kathryn Lembke leave, if she did?

A. She left between the time I was laid off and the time I came back. I can't tell you.

Q. At the time you were laid off, she was working? A. She was.

Q. Was Dorothy Richard working there then?

A. No.

Q. When you came back to work on June 12th, was Kathryn Lembke there? [129] A. No.

Q. Was Dorothy Richard there? A. No.

Q. When did Dorothy Richard come on, if you know?

A. I think Dorothy came on the following Monday that I came back to work; either that Monday or the one following that.

Q. On your cross examination you testified that the wall or the partition in the cutting room was about as high as the panel in this court room, and the distance between the panel in this court room

(Testimony of Vito Cimarusti.)

to the ceiling was approximately the same as in the factory building. Is that correct?

A. That's right.

Q. Would you say that the distance from the top of the panel to the top of this court room is approximately three feet?

A. It is approximately, yes.

Q. And that the panel, how high would you say that is, approximately?

A. About eight to ten feet.

Q. Now, as I understand your cross examination, you said something about the open end of this room, that there were counters and bins at that open end. Will you describe how those counters and bins are located?

A. Well, there is this one thing that stands as high as the partition. [130]

Q. What is that?

A. It is a bin, a bin like affair. They have threads and things in it.

Q. Have what?

A. Threads and bundles of work.

Q. Supplies?

A. Supplies. So it forms a doorway, like that wall there (indicating) does for the end of the court room. And then it comes in about, I would say, seven feet, and then it goes back towards the east about three or four feet. Then it has this opening. Then there is a counter there. Then there is another partition on the east end, and in front of this partition there is these bins where the materials are, the stocks.

(Testimony of Vito Cimarusti.)

Q. I believe I understood you to testify on cross examination that you were called to work in February 1941 for the company. Is that correct?

A. I was, yes.

Q. Who called you?

A. Lou Swartz

Q. Lou Swartz. Where were you when you were called?

A. My wife took the call. I answered him that night. He left a message for me to get in touch with him by phone.

Q. Did you call him by phone?

A. I called him by phone. [131]

Q. What did you say between yourselves?

A. He wanted to know if I cared to work for Lettie Lee, and I asked him how much he would pay, and he told me. And I told him I had another job, which I would have to give them notification, and I would want about a week's time. He agreed to that. I came in to see him in the meantime; after work I came in to see him, and talked to him. We had a discussion.

Q. By "in to see him", you mean at the factory?

A. In the factory. I talked to him. We talked about 15 minutes, and he told me the fellows liked him and they got along, and he studied me, and he liked me, and he says, "Well, you come in Monday."

Q. As a result of that conversation, you took up your employment with Lettie Lee?

A. That's right.

Mr. Nicoson: That is all.



(Testimony of Vito Cimarusti.)

Mr. Shapiro: Just one or two more questions.

Recross Examination

Q. (By Mr. Shapiro) When this strike was called on July 24th, do you know how many of the employees of Lettie Lee walked out?

Mr. Nicoson: I object to that. It is immaterial.

Trial Examiner Erickson: Overruled.

The Witness: Well, there was all the cutters.

[132]

Q. (By Mr. Shapiro) You mean the six men named in this complaint?

A. The cutters, yes.

Q. Well, you are talking about the six individuals named in the complaint?

A. I am talking about Lou Swartz and Mort Litwin being down the first two days after the 24th.

Q. The six men named in the complaint, and Lou Swartz and Mort Litwin?

A. And Mort Litwin.

Q. And that makes eight? A. Eight. ,

Q. Who else?

A. All the assorters were down. Tony was down, the stock girl.

Q. The stock girl? A. That's right.

Q. Was Sarah down? A. Yes.

Q. Marie Chavez? A. Yes.

Q. Frances Avila? A. That's right.

Q. Saloma Sesma? A. That's right. [133]

Q. Did they return to work, do you know?

A. That's something I didn't know at the time,

(Testimony of Vito Cimarusti.)

no. They didn't return to work the two days I saw them.

Q. Have they returned since? A. Yes.

Q. Did Kathryn Lembke go out?

A. Kathryn Lembke wasn't there.

Q. Did Dorothy Richard go out?

A. I didn't see Dorothy.

Q. Did Eunice Usher go out?

A. She went—she talked to us fellows, and then she went on home.

Q. Has she since returned to work?

A. I don't know. I haven't seen her.

Q. As a matter of fact, you know she has returned to work?

A. I haven't seen her. I can't say yes or no.

Q. All right. Who else out of all of the employees of Lettie Lee responded to that call for a strike?

A. Well, I was interested in the cutters and that's all. I paid more attention to that. Some of the operators were down, but I didn't know who they were.

Q. Do you know how many, by number, went out? A. No, I don't.

Q. Isn't it true, as a matter of fact, that out of the total employees of Lettie Lee, only approximately 20 walked [134] out?

Mr. Nicoson: I object to that. He has testified he didn't know how many went out.

Mr. Shapiro: This is cross examination.

(Testimony of Vito Cimarusti.)

Trial Examiner Erickson: He may answer, if he knows.

The Witness: I don't know.

Mr. Nicoson: It is repetitious. He has been over this question five or six times.

Q. (By Mr. Shapiro) You don't know?

A. I don't know.

Mr. Shapiro: All right. That is all.

Mr. Nicoson: That is all.

(Witness excused.)

Mr. Nicoson: May we have our noon recess now?

Trial Examiner Erickson: We will recess until 1:30 for lunch.

(Whereupon at 12:15 o'clock p. m. a recess was taken until 1:30 o'clock p. m. of the same day.) [135]

#### Afternoon Session

(The hearing was reconvened at 1:30 o'clock p. m.)

Trial Examiner Erickson: The proceeding will come to order.

Mr. Nicoson: Will you mark this, please?

(Thereupon the document referred to was marked as Board's Exhibit 6, for identification.)

Mr. Nicoson: At this time I offer in evidence the paper entitled "Stipulation," which, for the purpose of identification, has been marked Board's Exhibit 6. It is a stipulation concerning the com-

pany's business and its relation to commerce. I now offer it for the record.

Trial Examiner Erickson: It will be received.

(Thereupon the document heretofore marked Board's Exhibit 6, for identification, was received in evidence.)

BOARD'S EXHIBIT No. 6

United States of America

Before the National Labor Relations Board

21st Region

Case No. XXI-C-1807

In the Matter of

LETTIE LEE, INC.

and

INTERNATIONAL LADIES' GARMENT  
WORKERS UNION, CUTTERS LOCAL  
NO. 84, A. F. L.

STIPULATION

It Is Hereby Stipulated and Agreed by and between Lettie Lee, Inc., through its undersigned representative and Charles M. Ryan, attorney, National Labor Relations Board, as follows:

1. Lettie Lee, Inc. is and at all times since January 19, 1939 has been a corporation existing under and by virtue of the laws of the State of California.
2. The officers of Lettie Lee, Inc. are:

Lettie Lee	President
Mrs. R. H. Thain	Vice President
Sam Bothman	Secretary-Treasurer

3. Lettie Lee, Inc. is engaged in the manufacture of dresses at its place of business located at 719 S. Los Angeles Street, in Los Angeles, California.

4. Lettie Lee, Inc., in the conduct and operation of its business, uses the following kinds of material, namely: rayons, threads, buttons, buckles, and zippers.

5. Lettie Lee, Inc., during the calendar year ending March 31, 1940 purchased materials of the kind set forth in Paragraph 4 above in the amount of \$151,000, of which amount \$136,000 represents purchases from sources located outside the State of California.

6. During the calendar year ending December 31, 1940, Lettie Lee, Inc. made sales of its products amounting to \$397,000. Of the aforementioned amount \$250,000 represents sales made to purchasers located outside the State of California.

7. Lettie Lee, Inc. concedes that it is engaged in business in and affecting interstate commerce within the meaning of the National Labor Relations Act.

LETTIE LEE, INC.

By SAM BOTHMAN

CHARLES M. RYAN

Attorney National Labor Re-  
lations Board

Dated:

Mr. Nicoson: Harry Scott.

---

HARRY SCOTT,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Nicoson) State your name for the record. A. Harry Scott.

Q. Where do you live, Mr. Scott?

A. 706 North St. Andrews Place. [136]

Q. In the City of Los Angeles?

A. Los Angeles, that's right.

Q. What is your business or occupation?

A. At the present time I am technical consultant for the National Youth Administration for the State of California.

Q. What was your business or occupation during the months of May, June, July, August and September, 1941?

A. Organizer and cutters' representative of the International Ladies' Garment Workers' Union.

Q. What were the duties of your office?

A. Well, complete charge of the cutting department, take care of their complaints and organize the unorganized cutters that were in the market.

Mr. Shapiro: May I interrupt, Mr. Nicoson?

Mr. Nicoson: Yes.

Mr. Shapiro: At this time I am going to renew the motion I made this morning with reference to



(Testimony of Harry Scott.)

the exclusion of witnesses, your Honor. Technically, my motion might not apply with as much force with respect to this witness as to the employees of Lettie Lee, but I think if an order is made, and I think it should be made, I think it should apply to all witnesses who may testify in this action.

With respect to Mr. Sokol's remark that the harm has been done, because one of the witnesses had practically completed his testimony, that doesn't necessarily follow at all. [137] There are a great number of witnesses yet to come, I believe, and I don't believe the witnesses should sit in the court room and be in a position where they can hear the testimony repeated and repeated by one witness after the other.

Trial Examiner Erickson: Are there any witnesses here who are not named by the complaint as complainants?

Mr. Nicoson: What was that question?

Trial Examiner Erickson: Are there any witnesses in the court room now who are not named by the complaint as complainants, who are not named as 8 (3)'s?

Mr. Nicoson: There are two here.

Trial Examiner Erickson: What relation to the testimony—I mean, is there any relationship to the testimony that they will give to the testimony that the other witnesses in the court room will give?

Mr. Nicoson: Yes. I will say generally they will testify as to the operations of the union, which is

(Testimony of Harry Scott.)

not within the knowledge and, by its very nature, couldn't be within the knowledge of the complainant witnesses, if we may so term them.

Trial Examiner Erickson: You mean they are the only two witnesses except for the complaining witnesses?

Mr. Nicoson: That's right.

Trial Examiner Erickson: The motion is denied.

Mr. Nicoson: I suppose I should say three. I didn't [138] count the witness on the stand, when I said two.

Trial Examiner Erickson: Very well. Proceed.

Mr. Nicoson: May I have the last question and answer read, please?

(The record was read.)

Q. (By Mr. Nicoson) Pursuant to your duties to organize the unorganized, did you have any connection with any of the employees of Lettie Lee?

A. I did.

Q. When did that connection begin?

A. Well, some time in the early part of—the latter part of April or the early part of May.

Q. What employees were you interested in?

A. Concerned only about the cutters.

Q. The cutters. Will you state what was done at that time?

A. Well, on or about that time I called in a group of cutters that formed the organization committee, and assigned them to the 719 building. Then I assigned a special few to contact the boys of the Lettie Lee shop.

(Testimony of Harry Scott.)

Q. What is the 719 building?

A. That is 719 Los Angeles Street, where the firm of Lettie Lee has its premises.

Q. Proceed, please.

A. Well, this went on for some time, between the boys contacting these fellows and giving out leaflets, and they [139] started their general work of attempting to organize the cutters. Some time about, oh, the beginning of June—no, the beginning of July, I had been standing in front of the building, and one of the boys that was doing the organizing informed me that the cutters of Lettie Lee were going around to the restaurant around the corner, the Merchants Exchange restaurant, and that one or two, not mentioning any of the names, would like to have me come back and talk to them.

I went around the corner there, and it seemed they were very much in a hurry to get through their lunch, they didn't have much time there.

Q. Whom did you see there?

A. Oh, there was—let's see—there was Vito.

Q. Is that Cimarusti?

A. Cimarusti, Joe Sardo, Nolan—

Q. Nolan Berteaux?

A. That's right. Don Quinn, and Angelo. There was five of them there.

Q. Angelo Castella?

A. Yes. Oh, there was one more there, Lou Baliber. Lou Baliber came in in a few minutes, a few minutes later, because he came in to inform the boys it was time to go back to work.

(Testimony of Harry Scott.)

Q. You had a conversation there?

A. I had a very short conversation with them, wanting to [140] find out——

Q. What did you say to them?

A. I asked them——

Mr. Shapiro: Just a moment. I object to that. It is hearsay and not binding on the defendant in this case.

Trial Examiner Erickson: Overruled.

The Witness: I asked them what their feelings were towards the union, and how they felt about becoming members of the union. Well, none of them at that particular moment wanted to commit themselves, and I can't remember specifically who it was who said it, but the boys felt in general that since all of them weren't there at the present moment, they didn't want to commit themselves.

However, they said they would let me know at a later date, that I was to have our boys keep in constant touch with them. I had one in particular by the name of Lee Shapiro, and I had another one, Wexler, and one that is sitting here now, the man that took my place in the office there, Haas. They kept in constant touch with them.

And then on the 21st of July I was informed by Lee Shapiro that the boys were coming up to see me. It happened just right at the tail end of our organization work, when we didn't know just how soon the strike was going to be called, and everybody was up on their toes and busy. And the boys came in to see me and wanted to ask a few questions, [141] and

(Testimony of Harry Scott.)

wanted to know what the possibilities were in case there was a failure to organize the rest of the workers in the shop, whether they had some security, since they represented the majority of the cutters in the cutting department.

I informed them on previous cases that I have had, that I have had cases where I did represent the cutters even though no other members in the shop had been members of the union. I cited the cases to them, and informed them of one case in particular where the National Labor Relations Board, and the Examiner that walked out here just now, Mr. Yager, had handled the case, and it was agreed in the Chic Lingerie, where there was only four cutters involved, although there were six cutters employed in the department, including miscellaneous workers such as slopers, and assorters, and the like of that——

Mr. Shapiro: Pardon me. Is this a part of the conversation.

The Witness: Yes, I gave this.

Mr. Shapiro: You told these boys all this?

The Witness: That's right.

Mr. Shapiro: Excuse the interruption.

The Witness: This is the information they came up there for. They wanted to know where they stood, and I wanted to explain to them and gave them the understanding that, at least, I could assure them of at least that much security, that [142] there was a great possibility of our getting the thing over, because of the precedents that had been set.

(Testimony of Harry Scott.)

Q. (By Mr. Nicoson) You said you had some discussion about a majority. What was that discussion?

Mr. Shapiro: May it be stipulated that I have a continuing objection to this line of testimony on the ground it is hearsay and not binding on the defendant?

Trial Examiner Erickson: It will not be stipulated, but I will grant that.

Mr. Shapiro: Thank you.

The Witness: Your question again?

Mr. Nicoson: Read the question, please.

(The question was read.)

The Witness: I asked the boys how many cutters were employed in the shop, and I can't remember as to whether they said eight or nine, and since there were six at that particular time in front of me, I come to the conclusion that they did represent the majority of the cutters at that time in the shop.

Q. (By Mr. Nicoson) Well, did the six—

A. Pardon me. By the way, while they were standing there, I asked each of the fellows that were there what was their specific job, because there is such a thing as terming somebody as a cutter that is not a cutter, and I wanted to go back into the background, and when I got through [143] questioning, I was convinced they were all full-fledged cutters.

Q. You mean by that that they were experienced cutters?

A. That's right.

Q. Did they at that time sign cards?

A. Yes, sir.



(Testimony of Harry Scott.)

Q. All six of them?

A. That's right. No, one had signed a card—oh, one had signed a card some time in May. That was Joe Sardo had signed a card some time in May, and Lou Baliber didn't have to sign a card because he had already been a member of the union.

Q. Could they both have signed new cards there at that time?

A. Well, I wouldn't commit myself on saying yes.

Q. It is possible?

A. It is possible that they could have.

Q. Did you get an opportunity at that time to finish your discussion with these men?

A. No, I didn't. I was very busy at the time, and I told them I would like to have more time with them, in case they had any further questions to ask. But I did ask them of their willingness of joining the union, and whether this—I wanted to find out whether it was being done because of some force or some pressure, to know they come up voluntarily, of their own free will, and they stated they felt the [144] security of their jobs could be more depended on if they had an organization behind them.

Q. Well, did you arrange for a further meeting?

A. Then I arranged with them a further meeting. I arranged the meeting for not the next day, but the day after that, Wednesday, the 23rd. I arranged a meeting the 23rd at the Alexandria Hotel, arranged a dinner there.

Q. Before you get to that, did you do anything about the Lettie Lee situation on the following day?

(Testimony of Harry Scott.)

A. Yes. On the 22nd I got in touch with our attorney, Mr. Sokol, and told him the entire story, and asked him to get in touch with the firm of Lettie Lee and telling them who was up there to sign the cards, and asking him to go ahead and negotiate with the firm on behalf of these cutters.

He did that that day. I told him that day and called him back later on in the afternoon and asked him how he had made out. He said, "No luck," and that he left a call, and no luck.

I did the same on the 23rd. I called him, and, in fact, he called himself to tell me that he hadn't had any luck in getting in touch with the firm,

Q. That is Sokol you are referring to?

A. That's right.

Q. Now, on the 23rd you had a meeting, I understand, with the men? [145]

A. That's right, at the Alexandria Hotel.

Q. What transpired? First, tell us who was present?

A. At the meeting, Lou Baliber, Vito——

Q. That is Cimarusti?

A. ——Cimarusti, Angelo Castella, Joe Sardo, Don Quinn, Nolan Berteaux.

Q. Was anyone else present?

A. Yes, Lee Shapiro.

Q. Anyone else?           A. No.

Q. What transpired at this meeting?

A. Well, more or less of a broadening of the questions that took place in my office. They wanted to know just what were the possibilities of obtaining

(Testimony of Harry Scott.)

a contract in case anybody else did not come down out of the shop outside of themselves. And I went on to explain the precedents that had been established in the market, and that I thought that the chances were very good, since we represented a majority of the cutters in that place there.

Q. What time did this dinner meeting take place?

A. Oh, between 5:00 and 6:15.

Q. Would you say it was over by 6:15?

A. Yes, sir.

Q. After the dinner was over, did you do anything further in connection with it? [146]

A. Oh, yes. I had to get back to the union to report to the strike committee as to what took place here.

Q. "Here," what do you mean by "here"?

A. What took place at that meeting, I had to inform them.

Q. And did you?

A. I did so inform them just what took place there.

Q. What did you inform the strike committee?

A. That, according to the testimony of the boys there, that the majority of the cutters were in favor of joining the union or had joined the union, and I showed them the cards they had signed on Monday, and informed them of the previous membership of Baliber and the signing of the card of the other man, and of their intentions of sticking by the union.

Q. Was any action taken at that time?

A. No, not at that particular moment. At that

(Testimony of Harry Scott.)

moment when I made my report, there was no action taken, because none of us knew just what action would be taken in the immediate future.

Q. Was action subsequently taken?

A. Yes, that night.

Q. Were you informed of that.

A. Yes, by phone at the house that night. The strike committee had been made, and after the strike committee had been made, a committee that superseded the strike committee, it was the international officers of our union, who were [147] to determine—

Q. Who were they?

A. George Wishnak, Louis Levy and Rose Pissota. They are our international representatives, and they were in charge of the—well, how would I put this now—they were to determine the exact hour that a strike was to be called. Nobody in the union other than them knew of the exact hour the strike was to be called. And some time before midnight of the 23rd, I can't exactly remember the time, I was informed by telephone by Miss Pissota that the strike was to be called the following morning, and we were to be out as close to 6:00 o'clock as we possibly can, out in the street, to inform the workers as to where to report, those workers that come down on strike.

Q. Was there anything said in connection with Lettie Lee?

A. Yes. At that time Miss Pissota informed me then that we were going to include the Lettie

(Testimony of Harry Scott.)

Lee cutters, and other cutters that intended to come down on strike.

Q. Did she say why the Lettie Lee cutters were included?

A. Because we felt we represented a majority of the cutters in that shop.

Q. Any other reason?

A. Well, not that I can think of right now.

Q. Now, how long were you connected with the Cutters Union?

A. Since May of 1932. Yes, since May of 1932. Oh, as [148] business representative of the Cutters?

Q. Yes.

A. No, since January of 1940 as organizer and manager of the cutting department.

Q. You belong to the Cutters Local, don't you?

A. Yes, sir.

Q. How long have you belonged to the Cutters Local? A. Since August of 1932.

Q. Did you ever work in a shop yourself?

A. Yes, sir.

Q. How long have you worked in the shops?

A. About five or six years.

Q. As a cutter? A. Yes, sir.

Q. Do you have any knowledge or experience with what is termed as assorters?

A. Oh, yes, sir.

Q. Do you know what assorters do?

A. Yes, sir.

Q. Are assorters taken into your organization?

A. No, sir.

(Testimony of Harry Scott.)

Q. Is there anything to prevent them from becoming members of the Cutters Local?

A. Yes, their ability to cut.

Q. Does your organization recognize them as cutters? [149]

A. No, sir.

Q. Now, there has been some testimony here concerning an employee who performs what they call a sloping operation. Do employees who perform sloping operations,—are they taken into the cutters union?

A. No, sir.

Q. And why not?

A. Because of their lack of ability to do anything other than that.

Q. You don't recognize them as cutters?

A. No, sir.

Q. I think there has been some testimony about trimmers. Are trimmers taken into your organization?

A. At one time, when we were taking in assistant cutters, we attempted to consider trimmers, but that was overruled and trimmers are not classified as properly qualified to be cutters.

Q. And that is the situation at the present time?

A. Yes.

Q. Was that the situation in March, April, May, June, July, August and September of last year?

A. From the information I got from the boys, yes, sir.

Q. Now, in your capacity as organizer, have you in your experience organized, signed and procured



(Testimony of Harry Scott.)

a contract for cutters with the rest of the plant not being organized? [150]           A. I have.

Q. How many situations like that do you know of?

A. Well, to go back as far as 1934, with the Paramount Dress Company, right in the same building as the Lettie Lee Shop. Back in 1934 we represented just the cutting department.

Q. Did you have a contract?

A. Yes, obtained a contract and the firm became a member of the collective agreement with the Association, even though we just represented nobody else but the cutting department out of a shop of possibly 75 other workers.

Q. Anyone else?

A. Yes, sir. During the course of the strike, Classy Lass, a shop now at 746 South Los Angeles Street, that is the address of the firm, there just the cutting department, we represented nobody else in there, and we signed an agreement for a contract with an understanding that I represented the cutters in that department and negotiated on behalf of the cutters on wages and hours and who is to be worked.

Q. Do you have any other plants in that category?

A. Yes. As I started to tell you before, the Chic Lingerie.

Q. That is the one you spoke of before?

A. Yes.

(Testimony of Harry Scott.)

Trial Examiner Erickson: How do you spell that?

The Witness: C-h-i-c.

Q. By Mr. Nicoson): Anyone else? [151]

A. Yes, the Meena Negligee.

Q. In all these plants you just mentioned, you secured contracts for cutters?

A. I secured contracts for cutters in three, and at the Meena Negligee there was no written contract there, but negotiations were being carried on at the time I left, that was November the 1st, but I have——

Q. On what basis?           A. On what basis?

Q. Yes.

A. On wages and hours in behalf of the cutting department, and the firm had granted, had recognized me as the representative.

Q. Of what?

A. Of the cutting department, and had granted the cutters an increase of \$2.50 because of negotiations.

Mr. Nicoson: That is all. You may cross examine.

#### Cross Examination

By Mr. Shapiro:

Q. Do you know of any other local manufacturers where the cutters only have been signed, to the exclusion of the rest of the production employees?

A. Not that I know of. Not that I can recall.

(Testimony of Harry Scott.)

Q. Now, Chic Lingerie, I take it, manufactures lingerie; is that correct?

A. That's correct. Lingerie and sports wear.

[152]

Q. And Meena Negligee, I take it, manufactures negligees?

A. Bathrobes, negligees, and sportswear. The trade name does not necessarily state the type of work that they make there.

Q. And Classy Lass, what do they manufacture?

A. Dresses, somewhat similar to the type that you make, that the Lettie Lee makes; a cheaper line though.

Q. Now, you have referred to a Lee or Leo Shapiro, and my name is Leo Shapiro. We are two different persons?

A. That's right.

Mr. Shapiro: That is for the record.

Mr. Nicoson: I would even stipulate to that, Mr. Shapiro.

Mr. Shapiro: Well, maybe it was a poor choice of words.

Q. (By Mr. Shapiro): How do you know that Classy Lass makes dresses the same as Lettie Lee does?

A. I say the same type of a dress. The same type of a dress, on the same order.

Q. Do you know in what price range?

A. Much lower. They make four and six—

Q. \$4 and \$6 dresses? A. Yes.

(Testimony of Harry Scott.)

Q. Do you know what the Lettie Lee price range is?

A. Well, I wouldn't say that I know positively, but from the information I have received from the market, it is from [153] \$10. \$10 up.

Q. In other words, they get about twice as much for their dresses as Classy Lass; that is right, isn't it?

A. Yes, that's right.

Q. How about the Paramount Dress Company?

A. A much higher priced line.

Q. A higher priced line?

A. That's right.

Q. Now, with the exception of these four concerns, Paramount, Classy Lass, Chic Lingerie and Meena Negligee, do you know of any other manufacturers in the City of Los Angeles where your local represents the cutters and the rest of the production workers are not organized?

A. No, I don't. Not to my recollection, I don't know.

Q. How many dress manufacturers are there in the City of Los Angeles, comparable to Lettie Lee?

A. Oh, I would be in no position to give you any exact answer.

Q. Would you say that there are between 25 and 50?

Mr. Sokol: He said he didn't know.

Mr. Shapiro: He is an organizer in this line. He ought to know something about the subject.

The Witness: Well, may I broaden that answer?

Q. (By Mr. Shapiro): Surely.

(Testimony of Harry Scott.)

A. I haven't been able to get into all the rat holes yet. I [154] haven't been able to get into all the corners and find out where they are.

Q. Whom do you refer to, when you refer to rat holes?

A. The people who are hiding behind corners, who are supposed to be in the business, but on the surface they are not. They are considered manufacturers too. Their dresses are coming into the market, and we don't know where they are coming from.

Q. Will you tell me, Mr. Shaw——

A. Scott.

Q. Pardon me. Mr. Scott, will you tell me how many dress manufacturers there are in the city of Los Angeles, approximately?

A. I don't know. There could be anywhere from 25 to 50, as you say, but I wouldn't be positive about it.

Q. Well, there are many times four, aren't there?      A. Oh, yes.

Q. Four is a very small percentage?

A. Yes.

Q. Of the total number of dress manufacturers in this city? Isn't that true?

A. That's right.

Q. Now, on what date was your agreement with Classy Lass signed?

A. Oh, the exact date I couldn't say, but it was some time [155] in October.

Q. Of this year?      A. That's right.

(Testimony of Harry Scott.)

Mr. Sokol: You mean 1941?

The Witness: Yes, 1941.

Q. (By Mr. Shapiro): How about Chic Lingerie?

A. That happened in the early part of 1941. Some time in April.

Q. How about Meena Negligee?

A. Meena Negligee?

Q. Yes.

A. The negotiations with that firm was going on up until November 1st, when I severed my relationship with the union and went to work for the Government.

Q. You don't know whether they have since reached an agreement or not?

A. No, I really couldn't say, but I do know the negotiations I carried on with the firm, and because of the fact I was their representative, and he recognized me as such, I obtained an increase of \$2.50 for each of the cutters in that place there.

Q. What is the situation in the plants of the other dress manufacturers? What is the reason, if you can tell me, that you don't represent the cutters there? A. What other plants? [156]

Mr. Sokol: That is objected to as calling for the conclusion of the witness.

Trial Examiner Erickson: Overruled.

The Witness: What other plants?

Mr. Shapiro: The other dress manufacturers in this town.

Mr. Sokol: I object.



(Testimony of Harry Scott.)

Trial Examiner Erickson: Overruled.

Mr. Nicoson: Let me object also. That is assuming something not in evidence, whether he represents cutters in other plants. It is immaterial anyway.

Trial Examiner Erickson: Let him answer. I would like to know what the background is.

The Witness: What was the question?

Trial Examiner Erickson: Read the question, please.

(The question referred to was read.)

The Witness: I don't know what plants you are talking about. I don't know any specific plant you are talking about. Wherever our union has agreements, we represent cutters there throughout the better part of the industry, the dress industry, cloak industry, sportswear industry. I can't understand the question.

Q. (By Mr. Shapiro): Do the cutters have a separate agreement in any other plants, dress manufacturing plants of the city of Los Angeles, other than these four that you have [157] testified about?

A. Well, let me—yes. Let me explain that to this extent, that in the joint agreement that we have, we have separate arrangements for the cutting departments in the joint agreement, specifying the type of arrangements that is to be made for the cutting departments, and in signing those agreements, whether it be jointly or singly, the cutters' representative is there to see that these particular

(Testimony of Harry Scott.)

clauses are adhered to, or gone over with, and agreed to.

Q. Here is what I want to find out, Mr. Scott: You said that there were probably between 25 and 50 dress manufacturers in the city of Los Angeles.

A. I am taking your word for it. I don't know, I said.

Q. Let's assume there are between 25 and 50 dress manufacturers in the city of Los Angeles. You have contracts with the cutters with only four of those, according to your testimony.

Mr. Nicoson: He didn't say that.

The Witness: No, I didn't say that.

Mr. Nicoson: He didn't say that. He didn't testify anything like that.

Trial Examiner Erickson: Proceed.

Mr. Shapiro: Then I must have misunderstood the witness.

Q. (By Mr. Shapiro): What is your testimony?

A. My testimony is that—I am giving you testimony, [158] informing you that I have had contracts with firms, and I have negotiated with firms and have had contracts with firms just in cutting departments alone. I believe that we represent about 80 per cent of the cutters in the market, so they must be represented, the majority must be represented in the 25 or 50 that you mentioned, as far as the rest of the shops are concerned. The only shops we don't have much representation in is that 719 building, and even so, in that build-

(Testimony of Harry Scott.)

ing we have a representation of the majority of the cloak shops there.

Q. Then let me ask you this question: How many shops are there in the city of Los Angeles manufacturing dresses, where you do not represent the cutters?

A. I couldn't say that. I don't know. That is why I was there as an organizer, to go out and find out. That is a hard job to find out. We could never find out all of them, or even approximately.

Q. You were an organizer since January of 1940, weren't you?      A. Yes.

Q. And during that period of a year, or more than a year, weren't you able to find out approximately what percentage of the dress manufacturers in Los Angeles were organized——

A. No. It would take——

Q. ——as far as the cutters were concerned?

A. Well, no. It would take more than Mr. Scott and four [159] other Mr. Scotts put together to do that.

Q. Take the 719 building.      A. Yes.

Q. Do you know how many dress manufacturers there are in that building?

Mr. Sokol: I think this is going far beyond the reach of materiality, and I object.

Trial Examiner Erickson: Overruled.

Mr. Sokol: It is very hypothetical.

Trial Examiner Erickson: Overruled.

The Witness: Well, I wouldn't—about eight or ten in the building, a rough guess, just a guess.

(Testimony of Harry Scott.)

Q. (By Mr. Shapiro): Eight or ten?

A. I didn't come down here with any data on the thing. Just about eight or ten, I would say.

Q. All right. About eight or ten dress manufacturers, you think, in the 719 building?

A. Yes.

Q. How many of those manufacturers, other than Lettie Lee, employ cutters that are not members of your local?

A. Oh, that I can think of, there is Twentieth Century. Oh, they are members of our local, but no recognition, because they don't represent a majority.

Twentieth Century, Markowitz, Bettermade, a new firm there headed by Jean May, I don't know the name of it. [160] About four, that I can think of.

Q. Raab & Harmell?

A. Raab & Harmell, yes, that is another one.

Q. You say the cutters are members of your union, but they do not represent a majority in these plants?

A. Not in all of them, no.

Q. A majority of what?

A. A majority of the cutters in Twentieth Century, William Markowitz, Bettermade. Raab & Harmell, we had the two cutters employed in the shop out on strike, and I think there was another shop there. I just can't think of the name.

Q. Now, how do you determine, Mr. Scott, whether or not a particular unit is the appropri-

(Testimony of Harry Scott.)

ate unit, in so far as your organizing of that unit is concerned?

A. By the ability of the person who is working in that department, that unit.

Q. Do you have any rules that guide you in determining whether or not an employee who renders a particular type of service or work——

A. If there is a question——

Q. (Continuing): ——is qualified to membership in your local?

A. If there is a question of doubt in my mind when we question him before the membership committee, because of his background, if we don't know anything about his background, we give him a test. [161]

Q. Now, is it your testimony, Mr. Scott, that this girl—I will have her name in a minute—Eunice, who cuts with a shears, and sometimes with the power cutter, and follows a marker or a pattern laid out for her, that she is not a cutter?

A. Yes. She is not a cutter, in my mind. No cutter would classify her as a cutter, as that work usually, in the majority of the shops, is left to a shipping boy or a stock boy. It is very unimportant work.

Q. Is it possible for a woman to be a cutter?

A. Yes.

Q. And thereby become a member in your local?

A. Yes, we may have them.

Q. You may. Have you had them?

(Testimony of Harry Scott.)

A. We had two of them, but because of the——

Mr. Sokol: Well, that is all he wanted. That is the question.

The Witness: We had two.

Q. (By Mr. Shapiro): Go on and explain what happened to the two you had.

Mr. Sokol: That is objected to.

The Witness: They are still members of the union.

Trial Examiner Erickson: Sustained.

Q. (By Mr. Shapiro): What is the total membership in your local? [162]

A. Well,——

Mr. Sokol: Just a moment. That is objected to.

Trial Examiner Erickson: Sustained.

Q. (By Mr. Shapiro): Isn't it a fact that the services performed by this young lady, Eunice, requires more skill and more ability, by reason of the type of material that she works on and the fact that it has been pleated, than the work required of a person doing the ordinary cutting operations?

A. No, sir. No, the salary paid to that girl would determine that those——

Q. Well, now, do you take into consideration the fact, in admitting persons to membership in your union, that they may be performing a service that is directly related to the work performed by the cutters?

A. Not in the Cutters Local. We send them over to our miscellaneous department, where they are classified as a bundler or an assorter, or a general



(Testimony of Harry Scott.)

hand in the shop; not classified as a cutter. No, we wouldn't accept them in Local 84.

Q. How many cutters in the employ of Lettie Lee does your union represent?

Mr. Sokol: As of what date?

Q. (By Mr. Shapiro): As of July 24, 1941.

Mr. Nicoson: I object to that, unless he knows.

[163]

Trial Examiner Erickson: If he knows, he may answer.

The Witness: Well, I couldn't say right now offhand. I have been away, as I told you, since November 1st and my mind has been chuck full of a lot of other things other than this.

Q. (By Mr. Shapiro): You are no longer connected with the union in any capacity?

A. Oh, yes, I am a member of the union.

Q. You are not an official?

A. Not an official.

Q. Or an officer of it? A. No.

Q. Not in its employ? A. That's right.

Q. Were you an organizer prior to 1940?

A. Business agent, yes, and represented the dress division.

Q. Was that limited only to the Cutters Local?

A. No, sir. At that time I took in the entire scope, everybody that was employed in the dress departments.

Q. That is all. Oh, excuse me, one further question here.

You say that in this conversation of July 23rd,

(Testimony of Harry Scott.)

the prospective members questioned you as to what protection they would have in the event that they were a majority of the cutters, but that you were not able to get a majority of the other production employees in the plant, and you [164] cited them precedents you testified. What precedents did you cite?

A. Chic Lingerie and the Paramount Dress.

Q. Those were the two precedents you cited?

A. That's right.

Q. When you say that those were precedents, you mean cases that had gone to hearing before the Board?

A. No. The Paramount case went to an arbitration board, but it never came to no climax there. The firm itself recognized that we represented the majority, and consented and became a member of the association, without coming to any conclusions at any hearing. But in the Chic Lingerie case, the Chic Lingerie never reached a hearing neither. Through the negotiations of the representative of the National Labor Relations Board and the member of the firm, they ironed this thing out and come to a conclusion, the firm admitting that since we represented the majority of the workers—of the cutters in the cutting department, they will accept and recognize me as their representative.

Q. You didn't give them any precedents of cases that had actually gone to a hearing——

A. No.

Q. Before the National Labor Relations Board?

(Testimony of Harry Scott.)

A. No, just told them the story as I told it to you.

Q. As a matter of fact, you don't know of any such cases, [165] do you?

Mr. Sokol: Just a minute. I will give you some.

The Witness: I don't know of them personally, but I know of them back east, in Boston.

Mr. Shapiro: That is all.

### Redirect Examination

By Mr. Nicoson:

Q. Do you know, Mr. Scott, if there was any attempt made by the Cutters Local to organize anyone else but the cutters in Lettie Lee?

A. Oh, yes, there was.

Q. There was. The Cutters Local made an attempt to organize the rest of Lettie Lee; is that right?

A. No. I beg your pardon.

Q. I thought you misunderstood my question.

A. I beg your pardon.

Mr. Nicoson: Will you read my question again, Miss Reporter, so that the witness may understand just what it was?

(The question referred to was read as follows: "Q. Do you know, Mr. Scott, if there was any attempt made by the Cutters Local to organize anyone else but the cutters in Lettie Lee?")

A. No, nobody else but the cutters in Lettie Lee.

Mr. Nicoson: That is all.

(Testimony of Harry Scott.)

Recross Examination

By Mr. Shapiro:

Q. Was there an attempt made by any other [166] local of the same union to organize anyone else at Lettie Lee, other than the cutters?

Mr. Nicoson: We object to the words "the same union." I don't know what he refers to.

Mr. Shapiro: Of the union involved in this proceeding.

Mr. Nicoson: The Cutters?

Mr. Shapiro: No, the A. F. of L.

Trial Examiner Erickson: Reframe your question, so that it will be understood.

Q. (By Mr. Shapiro): Do you know whether or not there was any effort made by the International Ladies' Garment Workers' Union to sign any of the employees of Lettie Lee other than the cutters?

A. Only hearsay. Yes, I know of attempts by representatives of the dress department.

Q. Do you know whether or not any of the members of Cutters Local attempted to sign any of the other employees of Lettie Lee?

A. Well, I wouldn't know, because I gave them no such instructions, unless they were made by somebody else and asked to visit somebody. I wouldn't know.

Q. What other production employees of Lettie Lee did the International Ladies' Garment Workers' Union attempt to sign?

(Testimony of Harry Scott.)

Mr. Nicoson: I object to that, unless he specifies the division. He is using a broad term, all inclusive, to [167] confuse the witness and confuse the record, when this is a Cutters Local proceeding and there are no other locals in the I.L.G.W.U. here involved.

Trial Examiner Erickson: He stated he doesn't know except by hearsay. Do you have any concrete information on that?

The Witness: No, sir.

Q. (By Mr. Shapiro): Then you know nothing about the activities of the International Ladies' Garment Workers' Union, except in so far as the Cutters are concerned?

A. At that particular time I was very much concerned with the responsibilities that were assigned to me.

Q. Do you know whether or not any attempt was made to organize the operators?

A. Oh, yes, I told you.

Mr. Sokol: That has been asked and answered.

Q. (By Mr. Shapiro): How about the pressers?

Mr. Sokol: That is objected to.

Mr. Nicoson: We object, unless he specifies who was doing the organizing.

Trial Examiner Erickson: If he has any knowledge on it, let him answer.

The Witness: Well, I believe that the intention was to organize everybody employed in the shop

(Testimony of Harry Scott.)

by the Joint Board, but that was none of my concern. [168]

Q. (By Mr. Shapiro): But that was the intention; is that correct? A. I believe so.

Q. That was the object to be attained, if possible?

A. To organize every worker in the market. That was the object of the Joint Board of the International Ladies' Garment Workers' Union, to organize every worker in the market, whether they—you asked me a question—whether they intended to concentrate on this particular thing here or not, I don't know what their intentions were, but my intention was to organize the cutters of the Lettie Lee shop.

Q. With respect to the Lettie Lee shop, was it the intention of the International Ladies' Garment Workers' Union to organize all of the employees in that shop, if possible? A. You might—

Mr. Nicoson: I object. There is no showing this witness knew anything about that.

Trial Examiner Erickson: Sustained.

Q. (By Mr. Shapiro): None of the workers in Lettie Lee were organized except the cutters, were they? A. I don't know.

Mr. Nicoson: I object to that.

Trial Examiner Erickson: Sustained.

Mr. Shapiro: That is all.

Mr. Nicoson: That is all. [169]

Trial Examiner Erickson: Step down.

(Witness excused.)



Mr. Nicoson: George Wishnak.

---

GEORGE WISHNAK,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Nicoson:

Q. State your name, please, for the record.

A. George Wishnak, W-i-s-h-n-a-k.

Q. Where do you live, sir?

A. 832 South Oxford.

Q. Is that in the City of Los Angeles?

A. Yes, sir.

Q. What is your business or occupation?

A. I am an organizer for the I.L.G.W.U., that is, the International Ladies' Garment Workers' Union.

Q. Any particular division of it?

A. The dress department. I have charge of the dress department.

Q. Have you ever had any connection with the Cutters?

A. I have been organizing the workers of the trade for the last 40 odd years, and I have had connections with all the different crafts in the industry.

[170]

Q. Are you acquainted—or, have you for those 40 years been an organizer exclusively?

A. Part of the time I worked in a factory. Most of the time I did organizing work.

(Testimony of George Wishnak.)

Q. Have you during that time been a member of any labor organizations?

A. Yes, sir, the I.L.G.W.U.

Q. What was the first organization that you belonged to?

A. The United Garment Workers of America.

Q. How far back does that organization go?

A. During the Spanish-American War, when we were making uniforms for the Army.

Q. Have you since that time always been a member of a labor organization?      A. Yes, sir.

Q. Back in the Spanish-American War period, what position or job did you hold?

A. Working in a factory.

Q. As what?      A. As an operator.

Q. As an operator?

A. And a cutter at one time.

Q. A cutter at one time. When did you begin as a cutter?      A. 1896.

Q. Are you acquainted, Mr. Wishnak, with the history of [171] the Cutters, as a labor organization, from 1896 to the present time?

A. Up till about 1910, the only craft that was organized——

Q. Will you repeat for us what the history was from 1896 to 1910?

A. If you give me a chance, I will.

Mr. Shapiro: If the Court please, I don't believe this is proper testimony. Is this man being called as an expert on the history of union labor, or what is the purpose of this?

(Testimony of George Wishnak.)

Mr. Nicoson: They have denied in their answer that the Cutters are a proper unit. I propose to prove they are and have been since 1896.

Trial Examiner Erickson: The objection is overruled.

The Witness: The first craft that was organized in the needle trade were the cutters. They were considered the skilled mechanics of the trade, and they were the ones that were wearing the white collars and getting the highest wages at the factory.

As a matter of fact, at one time there was a strike of the cutters, which the United Garment Workers conducted in 1905, and the tailors also came out, but when the union went to settle the strike they ignored the tailors and settled for the cutters only, and the tailors refused to go back to work, because nobody actually recognized the other [172] part of the industry.

As a white collar part of the industry, the cutters were the skilled mechanics, and they were the ones and at that time it was the policy practically of the entire trade union movement to cater to the skilled trade workers, and the cutters having been a part of the skilled workers, they were the ones organized and recognized.

In 1910 when the International Ladies' Garment Workers' Union conducted a large strike, which was settled by the late Justice Brandeis, we organized the semi-industrial make-up, which consisted of all of the labor, into one Joint Board. The cutters came in on a stipulation that they will join

(Testimony of George Wishnak.)

the Joint Board, provided they will be given an autonomous standing, that they will be able to elect their own representatives, and attend to their own complaints and their own affairs. This has been carried on practically up to this date.

In addition to that, while none of the other locals or crafts, have any examination whether a man can do the job good, the cutters have an examination. Back east no cutter can come into the local unless he has passed the examination of the local as a full qualified cutter. A qualified cutter is understood to be a man who can make a pattern, make a mark and make a cut, and knows the difference between cutting in the middle of the chart, and not at one [173] end or the other. In Los Angeles the conditions are the same since I have been here. Only about three or four weeks ago, the representative of the Cutters Local, Mr. Jack Haas, has been elected by his own local, while all the other crafts jointly elect their representatives. In other words, the cutters claim that due to the skill of their craft, the other locals could not represent the interests of the cutters.

Naturally, when we go out organizing, we give every local the opportunity to go out organizing its craft, and everybody is interested to organize the different crafts, and it sometimes happens that we organize the operators, finishers, pressers, examiners, cleaners, and drapers, and cutters, and sometimes we organize cutters only. We never organize other units singly, because the other units are not

(Testimony of George Wishnak.)

of as vital importance in the shop as the cutters are. Therefore, whenever we organize a cutters' unit, we feel that that unit is the most dependable part of the factory.

Q. (By Mr. Nicoson) That is the situation at the present time? A. Yes, sir.

Q. Now, at the present time have you any connection with the Cutters Local that filed the charge in this case, No. 84?

A. As manager of the Dress Joint Board, I naturally have contact with the Cutters Local, as well as any other local. [174]

Q. There has been some testimony by the previous witness about a George Wishnak, a member of the union here in Los Angeles, of three to whom was entrusted the duty or obligation of determining when to call a strike in Los Angeles. Are you the same George Wishnak? A. Yes, sir.

Q. You are. Will you tell me whether or not you and your colleagues arrived at any decision in connection with the cutters in the employ of Lettie Lee?

A. When we were informed by the Cutters' representative the cutters, the majority of the cutters, signed up with the union, and that our attorney was attempting to get in touch with Lettie Lee, and when we were informed that Lettie Lee did not want to talk, or rather, did not return the telephone call of our attorney, we then decided to call the Lettie Lee cutters on a strike.

Q. And did you? A. We did.

(Testimony of George Wishnak.)

Q. Now, are you acquainted with the general description of an employee called an assorter or a bundler? Do you know of any such designation?

A. In our union we have——

Q. Do you know of that?

A. Why, of course I do.

Q. Go ahead. [175]

A. We have members of the miscellaneous local among the finishers, examiners and the less qualified workers. We also take in assorters and drapers.

Q. What do you mean by “we” take in assorters?

A. The local union takes in assorters in that particular craft.

Q. Do you mean when you say “we”, that the Cutters Local does?

A. No, no. I say that the local union that takes in unskilled help.

Q. Such as the operators and the like?

A. No, not the operators are not considered unskilled. They are semi-skilled. They are less skilled than the cutters, but are semi-skilled. But, in addition to operators, there are cleaners, examiners, pinkers, assorters, errand girls, and we have other miscellaneous that are called all kinds—qualified as other workers in the shop. Those workers are members of the union. And they are also classified as to how much wages they should receive, by which the scale of wages is made.

An assorter is classified as unskilled at \$17 per



(Testimony of George Wishnak.)

week, while a draper is \$20 per week. A special machine operator is also \$20 per week, according to our contract. The cutter is \$40 minimum and up. So you can understand that we do not look upon an assorter as a qualified worker or anyone [176] near the skill of a cutter.

Q. Would you say that the assorter is in the lowest wage bracket of any?      A. Yes, sir.

Q. Do you know whether or not assorters are admitted to the Cutters Union?

A. No, sir, they are not.

Q. Are you familiar with the job of sloping?

A. Yes, sir.

Q. Do you know what that is?      A. Yes, sir.

Q. Do you know whether or not a sloper is admitted to the Cutters Local?      A. No, sir.

Trial Examiner Erickson: Read that question and answer, please.

(The question and answer were read.)

Trial Examiner Erickson: What is your answer now? You don't know?

The Witness: No. I say they are not admitted.

Trial Examiner Erickson: All right.

Q. (By Mr. Nicoson) Are you acquainted with the trimmer?      A. Yes, sir.

Q. Do you know what that means?

A. Yes, sir. [177]

Q. Are trimmers admitted to the Cutters Local?

A. They are not.

Mr. Nicoson: They are not. I think that is all. You may cross examine.

(Testimony of George Wishnak.)

Cross Examination

Q. (By Mr. Shapiro) Do you know when these six employees named in this complaint became members of Local 84?

A. Except from hearsay, when it was reported to the strike committee. I couldn't tell you when exactly they signed up, and when they were admitted.

Q. Well, when was it reported to you that they had become members?

A. On the 23rd we called together—you see, as you were already told, there were only three of us who knew when we were going to call the strike. On the eve of the strike, on the 23rd, when nobody knew that the strike was going to be called, but we did, we called together the representatives of the different locals and asked them to report to us whom they have signed up and what they have signed up.

Q. What time of day was that on July 23rd?

A. About 8:00 o'clock.

Q. When you were advised——

A. About 8:00 o'clock in the evening.

Q. About 8:00 o'clock in the evening?

A. Yes, sir. [178]

Q. That is the first knowledge that you had that the cutters in Lettie Lee's factory had affiliated themselves with Local 84?

A. I wouldn't say that. I had the first knowledge unofficially. I knew that contacts were being

(Testimony of George Wishnak.)

made with Lettie Lee cutters, as well as the other shops. I also knew that Harry Scott had asked Sokol to call Lettie Lee about the cutters, but the official report came in on the 23rd to our meeting.

Q. As a matter of fact, the majority of the men mentioned in the complaint didn't join with the local until the 23rd of July, did they?

A. I don't know.

Mr. Nicoson: I object to that. There is nothing in the evidence to show that.

Trial Examiner Erickson: Objection sustained.

Q. (By Mr. Shapiro) What information did you have, when you decided to include Lettie Lee among the employers to be picketed and against whom the strike was to be called, what information did you have that Lettie Lee was not willing to talk or to deal with the representatives of your local?

A. First of all, we have sent letters to all non-union shops. I personally did. I think it was at the beginning of July, asking them to confer with us regarding their workers in the plant, as we have some workers who are being [179] signed up in their shops, and that we would like to confer with them. The firm of Lettie Lee has not replied to our letter. This information I had of my own experience.

Secondly, Scotty reported that he got in touch with our attorney and that our attorney had made several attempts to contact Lettie Lee, and that none of the firm wanted—cared to talk to him.

Q. As a matter of fact, Vito Cimarusti did not

(Testimony of George Wishnak.)

become a member of Local 84 until July 23, 1941, did he?

Mr. Nicoson: I object to that. That is contrary to the evidence in the record.

Trial Examiner Erickson: Sustained.

Mr. Nicoson: There is an exhibit to show.

Mr. Shapiro: Isn't it July 23rd?

Mr. Nicoson: July 21st.

Mr. Shapiro: I beg your pardon. July 21st.

The Witness: I don't know. Maybe yes, and maybe not. We were informed that they were being signed up and were getting reports that the boys were taken in, but technically, whether they did sign up on that day or not, I could not tell you.

Q. (By Mr. Shapiro) Then you were advised about 8:00 o'clock in the evening on July 23rd that the cutters had joined? A. Yes, sir. [180]

Q. And the strike was called for 6:00 o'clock the following morning?

A. No. When we were advised by Scott, he didn't advise us as to whether the strike should be called. He simply advised us what the situation was.

Q. And then you advised them?

A. Then we told him about 12:00 o'clock, midnight, that the strike would be at 6:00 in the morning.

Q. How many other places, other than Lettie Lee, was the strike called again?

A. The strike, as a matter of fact, was to affect the entire industry.

(Testimony of George Wishnak.)

Q. Every manufacturer in town?

A. Every manufacturer in town.

Q. You didn't have any particular grievance against Lettie Lee, that you didn't have against the other manufacturers, did you?

A. Well, with this exception, the other manufacturers have replied. You see, all the other manufacturers, the Mayor called a committee of the manufacturers and the union to settle the strike, and the other group of manufacturers responded to the Mayor's call. Lettie Lee did not.

Q. Was Lettie Lee the only manufacturer that did not?

A. Lettie Lee and their group; I think four or five of them.

Q. Are women cutters admitted to Local 84?

[181]

A. If they can pass the grade.

Q. How many women cutters are there in Local 84?

A. I don't think there are any. Our constitution has no prohibition against women. We are admitting women the same way as we admit men, on equal terms, providing, naturally, that they can pass the grade.

Q. Is there any reason why a woman who performs the same service as a man in the cutting department in a factory cannot be admitted to your union?

A. If she can command the same salary, she cer-

(Testimony of George Wishnak.)

tainly will be admitted and protected, the same as any other men.

Q. Is it a question of salary that determines her eligibility to membership?

A. Well, in a way the salary determines the skill of the man.

Q. Suppose a woman performs exactly the same services that a man performs and gets less money for it, would she be eligible to membership?

A. Oh, yes, she would, and we would try to raise her salary to the salary of the men.

Q. There are new systems, and machines, and devices in use in the industry, are there not—

A. Yes, sir.

Q. —that were not in existence when you gained your early experience? [182]

A. Yes, sir. We used to cut with a knife, you know, without power.

Q. Did I understand you correctly that you would not admit a cutter to membership in Local 84 unless he was a pattern maker?

A. No, unless he passes—unless he can show skill as a cutter, that is, grading. No, pattern makers are already the highest skill in the trade, but usually a man is admitted if he can grade a pattern and make a mark.

Q. Were you in the court room this morning when Mr. Cimarusti testified concerning the services that Eunice Usher performed in the factory?

A. Yes, sir.

Q. What would you say her position was?



(Testimony of George Wishnak.)

A. Sloper.

Q. A sloper? A. Yes, sir.

Q. Do you have a separate local for slopers?

A. No, sir.

Q. They fall within the miscellaneous classification? A. Yes, sir.

Q. In what way does the work that Eunice does differ from the work performed by any of the cutters?

A. Roughly speaking, I thought that your people were members of the industry and can explain to you, but when we meet with [183] lawyers who are not acquainted with the details of the industry they spend a lot of time on things that are so obvious to the men in the industry. If you ask your manufacturer, I think you will find——

Q. I am asking you.

A. And I am telling you a sloper is not a cutter, doesn't know the A, B, C's of the cutting game.

Q. Will you tell me in what respect the services performed by Eunice Usher differ from those performed by any of the cutters at Lettie Lee's plant?

A. Sure.

Q. All right. At the outset, let's understand each other. I don't claim to be a manufacturer or an authority in this line.

A. No, but look. Here is a cutter. He comes in the morning and he gets a ticket. On that ticket is written size so and so of so many dresses, such material, and, here, go ahead. He has to go to look for the pattern. Then he has to go and find the

(Testimony of George Wishnak.)

material. Then he has to make his lay, to find out as to how much goods would this pattern require. Sometimes a bum cutter can break a manufacturer, if he takes more material than is required for cutting that particular dress.

Sometimes a cutter who doesn't know how much goods to allow in going from size 16 to an 18, or when he goes down [184] from the 18 to the 16, he will also break the manufacturer, because the dresses will not fit when he doesn't grade sufficiently from 18 and down to the 16.

After he makes all his preparations, then he makes his mark and goes to the cutting. Just the cutting with the machine is not the most important part. The most important part is when he prepares for the cutting with the machine.

Now, here is a sloper. After the cutter—by the way, do you know where the word “sloping” comes from? I will tell you. You know, they used to make pleated skirts at one time and the material used to be pleated straight, but women have hips and have waists, and the waists are smaller than the hips. So they have to take it in in the waist and slope it down on the hips, so that the skirt wouldn't be too narrow in the hips and too broad in the waist. So all the sloper has to do usually, or sometimes, say, when the stitching has to be made, let us say, 10 or 12 inches down, she puts a chalk mark down as to how far down the operator should do the stitching, and when she comes to the waist,

(Testimony of George Wishnak.)

she may have to cut a little piece at this end (indicating), and a little piece at this end (indicating), and that is all she can actually do. She has nothing else to do on that skirt. She can do nothing else.

Now, if you think that this is the service, that this is what you would call a qualified cutter, and that Mr. [185] Bothman or anybody would pay a cutter's salary to a worker who can learn this trick within two weeks time, well, you have another guess coming.

Q. Mr. Wishnak, suppose there is one cutter or one man who makes the marks or the markers, whatever you call them, and none of the other cutters are bothered with them, and all they do is cut out the material, the cutters who simply do the cutting out either with the shears or the power device, do their services differ in any material respect, under those circumstances from the services performed by Eunice?

A. Oh, yes. Oh, positively. It simply shows that you haven't been guided right on this.

Q. Well, you just tell me.

A. I will tell you.

Q. (Continuing) —wherein their services differ.

A. Imagine that you have a seven or ten gore skirt, and if the cutter will cut on this side—an inexperienced cutter will cut on this side (indicating) of the chalk mark, or on this side (indicating), you may have your skirt two inches too wide or two inches too narrow.

(Testimony of George Wishnak.)

If he is an experienced cutter, he will know exactly where to cut the skirt, or the blouse, or the dress. If he isn't an experienced cutter, he certainly wouldn't know the difference.

While it wouldn't make a great deal of difference if [186] you have a three gore skirt, if you cut on this side of the chalk mark, or the other, it does make a difference if you have more pieces, so the question of having an experienced cutter is important for everybody that knows the A, B, C's of manufacturing.

Mr. Shapiro: Would your Honor permit Mr. Bothman to ask this witness one or two questions? He feels he can develop this subject a little more fully, and I think he is probably right.

Trial Examiner Erickson: Yes, he may do that.

Mr. Nicoson: Yes.

Q. (By Mr. Bothman) Have you taken an active part in the manufacturing, or how long has it been since you have taken an active part in manufacturing?

A. Well, as a matter of fact, I have never been out of a shop. All my life.

Q. You mentioned something about 1910, that you stopped being active as a manufacturer?

A. But I used to come into factories and advise people how to do things and what to do.

Q. The reason I am asking that question is because at the present day of manufacturing, it is quite different from what you are explaining, because a sloper today in intricate manufacturing—

(Testimony of George Wishnak.)

Mr. Nicoson: Oh, I object to that. That is testimony. [187]

Trial Examiner Erickson: Yes, sustained.

Mr. Shapiro: You can testify to that later, but any questions you want to ask, the Court will permit you to ask them.

Mr. Bothman: Pardon me.

Q. (By Mr. Bothman): When you say a sloper cuts off ends, are you sure that is all the sloper does?

A. It depends on how the house wants it done. You might ask the sloper to pin out the waist, and then you may have a sloper pin out the bibs, and you may have them do one thing and another.

Q. Does a sloper handle a scissors?

A. Yes, sir.

Q. Do they cut the material?

A. Yes, sir.

Q. Then you say it has nothing to do with cutting?

A. No, sir. So does the operator handle a scissors. So does a finisher. This is a trade where a scissors is being handled from top to bottom——

Q. Yes, I agree with you.

A. —and if you want to know my qualifications, you can ask Mr. Markowitz, for whom I worked, or for his father, and he was in the factory too.

Q. When the markers are made and handed to a cutter, you contend that a man can cut straighter than a woman; is that [188] correct?

(Testimony of George Wishnak.)

A. No, sir. If the woman has had experience, she can cut as well as the man; if she has experience and acquired the skill.

Q. That is true in any line, isn't it?

A. Why, of course.

Q. But you will admit men into your Cutters Local that can't make patterns?

A. Yes, sir.

Q. I believe you made the statement before that that was one of the qualifications?

A. Yes. I think the Cutters' representative will answer that, but I think they do. Usually we ask for a man to know how to make a marker and how to grade a pattern. Back east most of the cutters know how to make a pattern too.

Q. But you wouldn't say that is the qualifications for entering this Local?

A. I couldn't tell you that. Our representative for the Cutters Local will tell you that.

Mr. Bothman: That is all.

Trial Examiner Erickson: We will recess for ten minutes.

(A ten minute recess was taken.)

Trial Examiner Erickson: The proceeding will come to order.

Mr. Nicoson: May I recall Mr. Wishnak for an omitted [189] question.

Trial Examiner Erickson: You may.

#### Redirect Examination

Q. (By Mr. Nicoson): You are the same George



(Testimony of George Wishnak.)

Wishnak who previously testified in this hearing, are you not?      A. Yes, sir.

Q. There is some testimony in the record, Mr. Wishnak, concerning a strike called on July 24, 1941, against other dressmakers in Los Angeles other than Lettie Lee. Do you know if that strike has been terminated?

A. It has been terminated with those manufacturers that came to an agreement with the union. It has not been terminated against those who have not come to an agreement with the union.

Q. Was it terminated in connection with Lettie Lee?      A. No, sir.

Q. Why not?

A. Because they have not come to terms with the organization. They refused to bargain with the organization.

Mr. Shapiro: I will move to strike the last portion of the witness' answer, that they refused to bargain, to the end that it is a conclusion of the witness.

Trial Examiner Erickson: Let it stand.

Mr. Nicoson: That is all.

Mr. Shapiro: No questions.

(Witness excused.) [190]

Mr. Nicoson: Mr. Haas.

JACOB HAAS,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Mr. Sokol: Mr. Shapiro, will you at this time stipulate that the Cutters Local 84 of the I.L.G. W.U. is a labor organization within the meaning of the Act?

Mr. Shapiro: Yes, I will.

Mr. Nicoson: I will stipulate to that.

Q. (By Mr. Nicoson): Will you state your name for the record?

A. Jacob Haas, H-a-a-s.

Q. What is your business or occupation?

A. Well, up until three weeks ago I was a cutter. Now I am the business agent for the Cutters Local.

Q. Are you a member of the Cutters Local?

A. Yes, sir.

Q. How long have you been a member of the Cutters Local?

A. Since about 1932.

Q. As a member of the Cutters Local, do you have any knowledge of the eligibility of employees to become members in the Cutters Local?

A. Yes, I have. [191]

Q. Will you state what they are, please?

A. Well, in order to become a member of the Cutters Local, we have what we call an executive board and a membership committee from the execu-

(Testimony of Jacob Haas.)

tive board, so that anyone wishing to join the Cutters Local is sent to the membership committee, and there they are asked all questions pertaining to cutting, and so forth, before the membership committee recommends them to the executive board as eligible for the Cutters Local, as a member in the Cutters Local.

Q. How long has that system been in effect?

A. Well, that has been in effect ever since we had the union here in Los Angeles.

Q. How long has that been?

A. Well, there was a Cloak Makers Union here prior to that, but there was no Local 84 until about 1932.

Q. Now, this system of determining qualifications, does that precede the signing of a designation card, or is that between the signing of the designation card and the culmination of final membership?

A. I may answer it this way: A cutter makes an application to Local 84, Cutters Union, through the window, Local 84 window. That is, the girl, the clerk there, makes out an application and he appears before this membership committee. If the membership committee feels that this person hasn't worked in enough of the shops to qualify him as a cutter, [192] they send him to an examining committee, and then they are either recommended as a cutter to our local or not recommended.

Q. Do you know whether or not the Cutters Local here has officers separate and apart from the

(Testimony of Jacob Haas.)

other, the miscellaneous local I believe somebody termed it here?       A. Yes, that's true.

Q. They have separate officers?

A. Separate officers.

Mr. Nicoson: That is all. Cross examine.

Mr. Shapiro: No questions.

Trial Examiner Erickson: I have only one question.

Q. (By Trial Examiner Erickson): Does the Cutters Local No. 84 represent any of the miscellaneous employees, if those miscellaneous employees by a written designation ask that local to represent them in matters of collective bargaining?

A. As far as I know, it has never been practiced by our local. The only thing we represent is cutters, and I can give you a more clear definition, if you want to know what a cutter is.

Q. Well, the employees that worked at Lettie Lee applied for membership and they signed a designation card, which is in evidence here, I think, as Board's Exhibit No. 2. Now, would that card in itself start the wheels into motion so far as the local becoming the bargaining agent for those [193] employees?       A. Yes.

Q. Without anything further?

A. Well, you know, the first thing, there is a proceeding; in other words, before they sign these cards, there are quite a few matters to go through. But I happened to be one that spoke with the boys in the restaurant they have given in the testimony.

(Testimony of Jacob Haas.)

We spoke with these boys, and we know most of them and where they worked, and so forth, and in their case it would not have been an absolute necessity for them to go through the regular procedure in the case.

Q. That was before they signed the cards?

A. That was before they signed the cards, that we knew who we were dealing with and what type of cutters they were.

Trial Examiner Erickson: All right. That is all.

(Witness excused.)

Mr. Nicoson: David Sokol.

---

DAVID SOKOL,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Nicoson): Will you state your name for the record, please.

A. David Sokol. [194]

Q. What is your business or occupation?

A. Attorney.

Q. Where are you admitted to practice, Mr. Sokol?

Mr. Shapiro: I will stipulate Mr. Sokol's qualifications.

(Testimony of David Sokol.)

The Witness: I am admitted to practice in California and before the Supreme Court of the United States, and in the Federal courts.

Q. (By Mr. Nicoson): As an attorney, do you have any connection with Cutters Local No. 84 of the I.L.G.W.U.?

A. I am its legal counsel.

Q. How long have you served in that capacity?

A. Since June, 1941, approximately.

Q. Will you state whether or not on or about July 22nd, 1941 you had a conversation with a Mr. Harry Scott?      A. I did.

Q. What was the substance of that conversation, and who made the statements?

A. Mr. Scott informed me——

Mr. Shapiro: Just a moment. I am going to object to any conversations not in the presence of the defendant on the ground they are hearsay.

Trial Examiner Erickson: Overruled.

The Witness: Mr. Scott informed me that he had signed the cutters of a concern known as Lettie Lee, Inc. I asked to see the membership cards, and asked him how many were [195] employed there, and, as I recall, it appeared to be a majority. And he told me over the phone that he wanted me to contact the company, to see whether or not the company would bargain. He stated to me that his own relationship with the company was adverse, that the company officials would not talk to him.

Q. (By Mr. Nicoson): Did you follow out those instructions?      A. I did.



(Testimony of David Sokol.)

Q. What did you do to follow them out?

A. I called the company and left my name and telephone number the first time. The second time, I think on the 23rd of July, I called again and there was no response to my first call. I called again, and on this occasion I stated that I was calling for the Cutters Local, and that I wanted to inform the management that the Cutters Local desired to enter into negotiations and desired the company to recognize it.

I asked the girl to make note of my words, and I told her that if the company did not recognize the union, inasmuch as it represented the majority, there was a possibility of a strike because of the company's unfair labor practices. And I may say at that time, although I did not say it over the phone, I intended to relay to the responsible official of the management other unfair labor practices which I had discovered.

Mr. Shapiro: May I examine Mr. Sokol on voir dire for [196] one moment please.

Trial Examiner Erickson: Yes.

#### Voir Dire Examination

Q. (By Mr. Shapiro): With whom did you have your telephone conversations?

A. That I do not know. Later—I will say this, to save a little time—later, on the 25th day of July, I asked a girl whom I talked with what her name was, and she stated her name was Finkenstein.

(Testimony of David Sokol.)

Whether or not that was the same girl that I talked to on the preceding days, I do not know.

Q. You don't know the name of the girl you talked to on the 23rd?

A. I didn't inquire for her name.

Q. You don't know whether she was an officer, agent or other official of the company?

A. I do not.

Q. For all you know, she might have been a telephone operator or the switchboard girl?

A. I do not know her name.

Mr. Shapiro: I move to strike all the testimony of Mr. Sokol with reference to what he told the girl during the course of the telephone conversation, on the ground there has not been any proper foundation laid to admit the conversation, and that it is not binding on the respondent.

Mr. Nicoson: Before you rule, may I be heard?

[197]

Trial Examiner Erickson: The motion will be denied.

Q. (By Mr. Nicoson) When you called the first time, did you ask for any particular person?

A. I asked for Mr. Bothman, Mr. Sam Bothman.

Q. Do you know what his connection is with Lettie Lee?

A. I had been informed that he was one of the owners.

Q. Is that Mr. Sam Bothman, sitting at counsel table here?

(Testimony of David Sokol.)

A. I did not know at that time that it was the Mr. Bothman who is now present.

Q. Do you now know—— A. Yes.

Q. ——that that is the same Sam Bothman who has some connection with Lettie Lee?

A. That is my understanding.

Q. And that is the Mr. Bothman you were attempting to get in touch with?

A. That is correct.

Q. On the 23rd, when you called, for whom did you ask? A. Mr. Bothman.

Q. You asked for the same Mr. Bothman, I presume? A. Yes.

Q. And that is when you had this conversation with the girl, because of what? Why didn't you talk to Mr. Bothman?

A. Well, I asked her why Mr. Bothman hadn't returned my call, and then I told her to give him this statement. I told [198] her to be careful about it, that I wanted to make certain he would receive it.

Then on July 24th, I called again. There was no response again. Then on July 25th, I called exactly five times. Finally,——

Q. What did you do on the 24th?

A. On the 24th I called for Mr. Sam Bothman, again spoke to the girl, and told her that I was the attorney for Cutters Local 84 and wanted to request Mr. Bothman to enter into bargaining with the Cutters Local, which then represented a majority.

(Testimony of David Sokol.)

Q. On these three days did you leave your name and telephone number, at which you could be reached? A. I did.

Q. What transpired on the 25th?

A. On the 25th, I had received no calls, so I called the first thing in the morning, and left word again with the girl to the same effect. Then I called later, about 10:30 that morning, and I was provoked—I withdraw that. I stated to the girl that I desired her emphatically to inform Mr. Bothman that all I was asking was that he speak to me or to the representatives of the union with respect to entering into a bargaining relationship, and I told her that the fact that he was not responding to my calls aggravated the situation. [199]

Mr. Nicoson: At this time, your Honor, I request a return on my notice to produce, served orally on the record on respondent's counsel last Monday, I believe it was, a week ago.

Mr. Shapiro: On Tuesday.

Mr. Nicoson: On Tuesday.

The Witness: There is one other call there, Mr. Nicoson:

Q. (By Mr. Nicoson) There is another call?

A. Yes. After receiving no response to my five calls on July 25, 1941, a week later I called the firm of Katz & Bothman, inasmuch as I was advised that Mr. Katz was related to Mr. Charles J. Katz, an attorney in this city whom I knew, and I felt that by directing the attention of Mr. Katz of the firm—of the other firm of Katz & Bothman—that possibly

(Testimony of David Sokol.)

I could get in communication in that way with Mr. Sam Bothman.

I told Mr. Katz that the union desired to enter into bargaining with Mr. Sam Bothman. He told me that he would try to speak to Mr. Bothman, Mr. Sam Bothman.

Subsequently, I called him again, and he told me that he had spoken to Mr. Sam Bothman.

Mr. Shapiro: I am going to object to anything Mr. Katz, or whoever the other party is, told Mr. Sokol. That is certainly the worst sort of hearsay, someone entirely [200] disconnected with Sam Bothman.

Trial Examiner Erickson: Did you hear the first part of the testimony?

Mr. Shapiro: Yes, I did, your Honor.

Trial Examiner Erickson: The objection is overruled. Proceed.

The Witness: Thereafter, I received no responses from the concern, Lettie Lee, Inc.

Trial Examiner Erickson: What was it that Katz told you?

The Witness: Mr. Katz told me that he would try to get to speak to Mr. Bothman.

Trial Examiner Erickson: After that?

The Witness: He told me he had talked to Mr. Sam Bothman, and he didn't say whether Mr. Bothman would discuss the matter with the union.

Mr. Shapiro: Does your Honor understand that the Mr. Bothman of Katz & Bothman is not this Mr. Bothman, but another party?

(Testimony of David Sokol.)

Trial Examiner Erickson: Mr. Sam Bothman is the same party as was referred to as having been talked to by Mr. Katz.

Mr. Shapiro: Yes, the same party, but he is not Mr. Bothman of Katz & Bothman. That is another dress manufacturer.

Trial Examiner Erickson: I understand that. Proceed.

Mr. Nicoson: Last Tuesday I served a notice to produce upon respondent, requesting that they produce a letter from [201] David Sokol, addressed to Lettie Lee, Inc., 719 South Los Angeles Street, Los Angeles, California, and dated September 8, 1941. There has been no response to that.

Mr. Shapiro: We don't have that, Mr. Nicoson. I have given you the letters of September 9th and September 13th. Those are the only two we have either in my file or in my client's file. If it was ever sent or received, we do not have it.

The Witness: I have a copy of the letter of September 8th.

Mr. Nicoson: I have too. Will you mark this, please?

(Thereupon the document referred to was marked as Board's Exhibit 7, for identification.)

Q. (By Mr. Nicoson) I hand you an instrument which, for the purpose of identification, has been marked Board's Exhibit 7, and ask you to examine it and state if you know what it is.

(Handing document to witness)



(Testimony of David Sokol.)

Mr. Shapiro: What is the date of that letter?

Mr. Nicoson: September 8th.

The Witness: That is the letter which I sent to the respondent on September 8, 1941.

Q. (By Mr. Nicoson) That is not the original, is it?

A. That is a copy.

Q. Did you dictate that letter?

A. Yes. [202]

Q. Do you know that it was put into an envelope and sealed?

A. Yes, it was.

Q. Was proper postage affixed?

A. Yes.

Q. And was it deposited in the United States mails?

A. It was.

Mr. Nicoson: I now offer this in evidence.

Mr. Shapiro: May I see it and examine the witness on voir dire, your Honor?

Mr. Nicoson: Certainly.

Trial Examiner Erickson: You may.

(The document referred to was handed to counsel.)

#### Voir Dire Examination

Q. (By Mr. Shapiro) Mr. Sokol, you didn't mail this letter yourself, did you?

A. I did.

Q. You did?

A. Yes.

Q. You deposited it in the mail chute yourself?

A. I did.

Q. Do you mail all your letters yourself?

A. No, but I wanted to make certain that I could testify with respect to mailing these letters. I will be very frank and say that. [203]

(Testimony of David Sokol.)

Q. Did you mail the letter of September 9th yourself?

A. Yes. All of these communications to Lettie Lee I mailed myself.

Q. Do you make it a practice of mailing your own letters?

A. When I intend to make any affidavit of mailing, I do so.

Q. Did you make an affidavit of mailing concerning this letter of September 8th?

A. No, but I sent a copy to the Labor Board, as I recall.

Q. You have a distinct recollection of putting it in the United States mail yourself?

A. That's right.

Mr. Shapiro: All right.

Trial Examiner Erickson: It will be received.

(Thereupon the document heretofore marked as Board's Exhibit 7, for identification, was received in evidence.)

## BOARD'S EXHIBIT No. 7

File C 1807

September 8, 1941

Lettie Lee, Inc.

719 South Los Angeles Street

Los Angeles, California

Attention: Mr. Bothman

Gentlemen:

On numerous occasions prior to and since July 24, 1941, the International Ladies' Garment Workers'

(Testimony of David Sokol.)

Union has endeavored to get you to bargain with it concerning wages, hours and working conditions of your cutters.

At all times the Union has been willing to prove to you that it represents a clear majority of these employees, but nevertheless you have refused to bargain. On July 24, 1941, and on at least four other occasions, the undersigned, on behalf of said Union, has endeavored to reach you concerning this matter. I have repeatedly left requests with your secretary that you call me, but you have failed.

I have been informed this date by Mr. D. C. Sargent, Field Examiner for the National Labor Relations Board, that you definitely refuse to bargain with the Union, even though it represents a clear majority of the cutters.

I do not know whether you have sought advice in this matter, but you should be completely assured by this time that the Union represents a majority of such employees and that you are bound under the law to bargain with the Union.

Kindly advise me forthwith whether or not you intend to bargain.

Very truly yours

DAVID SOKOL

DS:js

---

Direct Examination (Continued)

Q. (By Mr. Nicoson) Directing your attention to Board's Exhibit 7, and calling your attention to

(Testimony of David Sokol.)

blue pencil marks on there, those marks weren't on there when that was mailed, were they?

A. No.

Q. That isn't your marking?

A. No, it isn't.

Mr. Shapiro: Do you have an extra copy of that, Mr. Nicoson? [204]

Mr. Nicoson: That is the only one I have. Will you mark this, please?

(Thereupon the document referred to was marked as Board's Exhibit No. 8, for identification.)

Q. (By Mr. Nicoson) I now hand you a letter which, for the purpose of identification, has been marked Board's Exhibit 8, which was furnished me by counsel for respondent under my notice to produce, served upon him last Tuesday, and ask you to examine it and state if you know what it is.

(Handing document to witness)

A. That is the letter which I sent to the company on September 9, 1941.

Mr. Nicoson: I will offer this in evidence.

Mr. Shapiro: I will object to the introduction of that, if the Court please, upon the ground that it doesn't appear to be anything more than a communication from an attorney representing certain clients, in no particular capacity, and I direct the Court's attention to the first paragraph, in which it is simply stated, on behalf of certain named individuals he requests that they be reinstated. It

(Testimony of David Sokol.)

doesn't appear that he is making that request as an attorney or an officer or in any other capacity relating to the union in this particular case, and I don't think it is a proper exhibit.

The Witness: As counsel appearing in this matter, I [205] may say that the preceding letter gave my representative capacity, I believe, and also my previous communications.

Trial Examiner Erickson: He doesn't say "on behalf of certain persons." He names the persons.

Mr. Shapiro: Yes.

Trial Examiner Erickson: And these are the persons named in the complaint.

Mr. Shapiro: That is right, but he doesn't say in what capacity.

Trial Examiner Erickson: Objection overruled. The exhibit is received.

(Thereupon the document heretofore marked as Board's Exhibit 8, for identification, was received in evidence.)

(Testimony of David Sokol.)

BOARD'S EXHIBIT No. 8

DAVID SOKOL

Attorney at Law

707 South Hill Street

Los Angeles, California

Tucker 8500

September 9, 1941

Lettie Lee, Inc.

719 South Los Angeles Street

Los Angeles, California

Attention: Mr. Bothman

Gentlemen:

On behalf of Angelo T. Costella, Vito N. Cinarusti, Nolan Berteaux, Louis Babber, Joe Sardo and Donald F. Quinn, I am demanding that they, and each of them, be immediately reinstated to their former positions with your concern, without the loss of any rights or privileges which they may have had prior to the strike.

The above named have requested that I ask you to reinstate them and are ready, willing and able to immediately return to work.

At the same time, pursuant to my letter to you of September 8, 1941, I am demanding that you bargain with the International Ladies' Garment Workers' Union, which is the representative of these employees and a majority of your cutting department.



(Testimony of David Sokol.)

I shall expect you to inform me as to your position by September 11.

Yours very truly

DAVID SOKOL

DS:js

---

Mr. Shapiro: I didn't mean to mislead you, your Honor, by saying "on behalf of certain persons," but my point is that he doesn't say that he makes the demand as the attorney, agent or representative of the union. It isn't a demand on behalf of the union.

Trial Examiner Erickson: It is in evidence.

Mr. Nicoson: Will you mark this, please?

(Thereupon the document referred to was marked as Board's Exhibit No. 9, for identification.)

Mr. Shapiro: If that is the letter I produced, I have no objection to your using that.

Q. By Mr. Nicoson: I now hand you a letter which, for the [206] purpose of identification, has been marked Board's Exhibit 9, which was furnished me in response to my notice to produce on counsel for respondent last Tuesday, and I ask you to examine it and state if you know what it is.

(Handing document to witness)

A. This is the letter I wrote the respondent on September 13, 1941, and in connection with this I want to state that I called to the attention of the

(Testimony of David Sokol.)

respondent the fact that I was requesting reinstatement on behalf of the union.

Mr. Nicoson: I offer that in evidence.

Mr. Shapiro: I have no objection to this one, your Honor.

Trial Examiner Erickson: It will be received.

(Thereupon the document heretofore marked as Board's Exhibit 9, for identification, was received in evidence.)

BOARD'S EXHIBIT No. 9

DAVID SOKOL

Attorney at Law

707 South Hill Street

Los Angeles, California

Tucker 8500

Union Label-100

September 13, 1941

Lettie Lee, Inc.

719 S. Los Angeles St.

Los Angeles, California

Attention: Mr. Bothman

Dear Sir:

I neglected to advise you that the International Ladies' Garment Workers' Union was demanding that you also reinstate Mortimer Litwin, together with the other cutters named in our letter of September 9th.

To date I have received no reply to my letter of September 9 and naturally assume that you re-

(Testimony of David Sokol.)

fuse to reinstate the cutters named in the letter. So that there may be no question about the cutters that the Union is requesting be reinstated, be advised that the demanded reinstatement applies to all of the cutters who went out on strike.

Kindly advise me whether or not you will reinstate the men forthwith.

I am again urging upon you that you bargain with the cutters Union Local #84 of the International Ladies' Garment Workers' Union.

Very truly yours,

DAVID SOKOL

DS:sr

cc: Mr. E. C. Sargent

N. L. R. B.

---

Q. (By Mr. Nicoson) Did you, at or about these times, on September 8th, 9th and 13th, have any other communications or attempted communications with the Lettie Lee Company?

A. I believe I met Mr. Bothman up in court one day. Whether or not I asked him at that time to bargain, I don't recall.

Q. Are you acquainted with the complainants in this case by their names? A. Yes.

Q. Subsequent to these letters, did you have a meeting or conversation with them? [207]

A. Yes, about September 15th, a day or two after the final communication.

Q. Where did you have this conversation or meeting? A. In my office.

(Testimony of David Sokol.)

Q. What was the substance?

A. I informed them that I had requested the respondent to reinstate them. I may say that originally I was requested by Mortimer Litwin to get his reinstatement, and I believe he returned to work, but I nevertheless requested his reinstatement. At the time of writing the letters, I didn't know that he had returned.

Q. Did you have any further connection or activity with this case?

A. Well, I want to say this: I think that there are applications in for all of the members of the union except Mortimer Litwin, and he personally informed me on July 24, 1941, in my office that he desired the union to represent him. I think the union's record will also show that, if it is necessary to produce those records, but he personally informed me to that effect.

Q. Anything further?

A. Mr. Swartz, who was in my office, advised me that on April 13, 1941—I think that is the date—may I get my notes written on the occasion?

Q. Yes, you may. [208]

A. (Referring to notes) This was dictated on the occasion. Louis Swartz, head cutter at respondent's plant, informed me on July 24, 1941, that on April 24, 1941 he told Mr. Bothman that Scotty of the union wanted an interview with respect to collective bargaining with him, and that Bothman replied that he had nothing to talk over with Scotty.

(Testimony of David Sokol.)

Q. Who is Scotty, do you know?

A. The then business representative of the Cutters Local.

Q. Is that the Mr. Scott who just testified?

A. Yes.

Mr. Shapiro: I am going to move to strike the entire answer on the ground that April 24, 1941 was prior to any of the dates alleged or set forth in this complaint, and prior to the time that the union claims to have become the representative of these six individuals in the complaint for bargaining purposes.

Mr. Nicoson: We have a right to show background.

Trial Examiner Erickson: The motion to strike is denied.

The Witness: I want to add this, in the examination of myself: That prior to the strike I was advised that the respondent had told its employees not to join the Cutters Local.

Mr. Shapiro: Just a moment, Mr. Sokol. I know that the Court is not bound by the strict rules of evidence, but I think there is some limits so far as hearsay testimony is [209] concerned.

Trial Examiner Erickson: I don't know by whom he was told.

Mr. Shapiro: That is one objection. That does not appear, and also——

Trial Examiner Erickson: The objection is sustained.

(Testimony of David Sokol.)

The Witness: Louis Swartz and other employees informed me of the background of the labor relations of the company.

Mr. Shapiro: Just a minute, Mr. Sokol. I am going to object to any conversation between Mr. Sokol and Mr. Swartz upon the ground that Mr. Swartz has not been shown to be the agent or representative of Lettie Lee in any respect, and that Lettie Lee is not bound by any statements that Mr. Swartz might have made to Mr. Sokol, or to anybody else.

Trial Examiner Erickson: Overruled.

Mr. Shapiro: It is purely hearsay.

Trial Examiner Erickson: Overruled.

The Witness: The only thing I want to say in connection with that is that the strike was called by reason not only of the refusal to bargain, but previous unfair labor practices of the company and its general relationship to all organizing.

Mr. Shapiro: I move to strike the witness' answer in so far as it has to do with previous relations to labor or union controversy, upon the ground that it is incompetent, irrelevant and immaterial, has nothing to do with any of the [210] issues in this case, and is certainly hearsay so far as Lettie Lee is concerned.

Mr. Nicoson: He has a right to testify——

Trial Examiner Erickson: The motion is denied.

Mr. Shapiro: We don't even have the benefit of knowing who told him those things.

The Witness: I will answer that.

Mr. Nicoson: Well, the objection is sustained.



(Testimony of David Sokol.)

The Witness: Well, I desire to answer that question on cross——

Mr. Nicoson: Are you cross examining yourself? You are still my witness. I haven't turned loose of you.

Trial Examiner Erickson: Did you say I sustained the last objection, Mr. Nicoson?

Mr. Nicoson: I thought you did.

Trial Examiner Erickson: I didn't. I overruled the objection.

Mr. Nicoson: That is what I meant. What I meant was you ruled that the motion was denied. I probably got the terms confused.

That is all. You may cross examine.

#### Cross Examination

Q. (By Mr. Shapiro) When was the first time that you wrote to Lettie Lee concerning this matter? A. September 8, 1941. [211]

Trial Examiner Erickson: You might save time if Mr. Sokol examines himself, as he calls it, if he has anything further to put into the record, before you cross examine.

The Witness: No, nothing at this time.

Trial Examiner Erickson: All right. Then you may cross examine.

Q. (By Mr. Shapiro) You have told us on direct that you placed repeated calls at the place of business of Lettie Lee for Mr. Bothman. Did you ever ask for any other officer of the company?

A. No.

(Testimony of David Sokol.)

Q. Did you know what Mr. Bothman's connection was with Lettie Lee, Inc.?

A. Only that he was an officer and part owner.

Q. You knew that Lettie Lee, Inc. was a corporation, didn't you?           A. Yes.

Q. You knew that presumably it had other officers?

A. Yes. I understand, I may say, that only he and Miss Lee were the holders of the stock in the corporation.

Q. Did you ever ask to talk to Miss Lee?

A. No, I didn't. I understood that he was the man to speak to.

Q. Did you know that Lettie Lee is the president of Lettie Lee, Inc.? [212]

A. I didn't know.

Q. Pardon?           A. I didn't know.

Q. When you were told that Mr. Bothman was not in, and you discovered that he didn't return your calls, why didn't you ask for somebody else in the company?

A. That was not the answer. The answer was that he would not answer my calls. Finally, I got that from Miss Finkenshtine. It wasn't a question of his not being in. Finally, she told me, after repeated calls on July 25th, she said, "He will not answer your calls."

Q. Did you then ask to talk to anybody else?

A. No, I didn't.

Mr. Shapiro: That is all.

(Testimony of David Sokol.)

Mr. Nicoson: That is all.

(Witness excused.)

Mr. Nicoson: Don Quinn.

---

DONALD QUINN,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Nicoson) State your name for the record.

A. Donald Quinn.

Q. Where do you live, Mr. Quinn? [213]

A. 227 South Columbia.

Q. Is that in the city of Los Angeles?

A. That's right.

Q. On or about June 11, 1941 where were you employed, if you were?

A. Lettie Lee, Inc.

Q. In what capacity?

A. As a cutter, a dress cutter.

Q. On that date did you attend a meeting at which Mr. Sam Bothman was present?

A. I did.

Q. Where did the meeting take place?

A. In the cutting department; in the cutting room.

Q. About what time?

A. About 4:30, just a few minutes after 4:30.

Q. Will you state what occurred at that time,

(Testimony of Donald Quinn.)

telling us who made any statements that were made?

A. Well, at 4:30 all the boys gathered around the cutting department, the cutting tables, and Mr. Bothman came in a few minutes afterwards. He walked in and he immediately said, "which one of you fellows, or any of you fellows going to join the union or have any intention of joining the union?"

Well, we all sort of laughed. We didn't give any direct answer. Then he went on to say, he went into a discussion about the union, how bad it was, how—— [214]

Mr. Shapiro: Just a moment. I am going to object to the witness summarizing.

Mr. Nicoson: I think that is right. Just state what was said. I sustain your objection.

The Witness: Well——

Q. (By Mr. Nicoson) Tell us, as best you now recall, what was said. You don't have to repeat the exact words, if you don't recall them. To the best of your recollection, what was said and who said it?

A. Well, Mr. Bothman said—started—he said about the union, he said, "Now, you know, I don't want you fellows to think that union is going to do anything for you." He said, "You know they are all out for your dues, and it is just a racket up there." He says, "They are not going to give you any protection. They may promise you a lot of things." He says, "Just like in my brother's shop

(Testimony of Donald Quinn.)

downstairs, which is Katz & Bothman," he says, "the cutters down there have a union shop, and they only work about three or four months a year, and when my brother gets busy he stuffs the shop with cutters, so they only average about three or four months of work a year."

Then he went on to say, he said—wait a minute—he said he would never sign a union contract: "I want you fellows to understand that I would never sign a union contract, but if I had to, you know what would happen?" He [215] said, "You know how I give the tickets out, and you get single garments to cut, and we cut it steady." He said, "I could hold those tickets and you fellows would be held back."

We said, "You can't do that." We kind of talked about that.

He said, "I could hold the tickets up for two or three weeks, and then I could call you fellows in for a couple of weeks, and then you would be off. As it is now, I am trying to spread the work out so that you fellows are staying employed as much as possible."

Then he went on to say about what happened in New York, how the union used to hold the fellows down there, that if they went in the union as a shipping clerk, they didn't have any possible chance for advancement at all, they didn't have any chance to become salesmen or get into a different department where they would earn more money.

So he covered several other points about that,

(Testimony of Donald Quinn.)

and finally he came back to the question, he finally said, "Now, I understand you fellows want more money." So one of the fellows had spoken up and said the cost of living had gone up, so that is why we wanted more money.

So then he repeated the question, "Well, you fellows aren't going to join the union," he says, "I will tell you what I will do." He says, "Either you can work overtime a [216] couple hours every night, maybe three or four nights a week," he said, "and at the end of the year you will make more money by working overtime than if I give you a raise," he says, "because if I give you a raise, I might have to lay you off, and then the time you lose would be more than made up if you worked this overtime."

So then he mentioned that in the latter part—I am sorry. I went over something—that was in the latter part of the conversation. But in the middle of the conversation, he said, "Now, you know I would never sign a contract, a union contract." He said, "Before I would sign that, I would rather close up the shop, Miss Lee could go back to her ranch in Texas, and I would go into some other business, but I wouldn't have a damn—but I wouldn't have a thing to do with those fellows up there."

Q. What fellows?

A. The union. He said, "The union." He said, "I know that Scotty," and he said, "those other—"

Q. What did he call them?

A. Well, he called them sons of bitches. So



(Testimony of Donald Quinn.)

then finally, just before the meeting closed up, he told us to think it over about the overtime, and whether we wanted the overtime or the raise, and to give him the answer Monday.

So we left the place there, and a few of us got to talking afterwards, and the next day we went to the restaurant [217] where we always eat, the Exchange Cafe. So there were four of us there, and a couple of the boys dropped in. So we decided there that we would rather have the raise than work the overtime. So that night——

Q. What did you do about that, during the course of the day, if anything?

A. Well, we talked to Lou Swartz. I did, and I believe several of the other fellows talked to him too, that we wanted to meet with Mr. Bothman that night, Thursday night. Well, Mr. Swartz kept advising us not to ask for a raise, to wait until next week. Well, we told him we wanted to see Mr. Bothman about that.

Well, he put us over until the next day. So, finally, one of the boys, Mr. Castella, encountered Mr. Bothman during the day and told him we wanted to see him that night. So he said, "All right." So he informed some of the other boys and the other boys informed me about it. So we had the meeting at 4:30 that night.

Q. What night is this?

A. Friday night.

Q. Where did the meeting take place?

A. In the cutting department.

(Testimony of Donald Quinn.)

Q. Who was present?

A. Present, Lou Baliber, Angelo Castella, Joe Sardo, Nolan Berteaux, myself, Mort Litwin and Lou Swartz. [ 218]

Q. And was Mr. Bothman there?

A. Bothman came in a few minutes after quitting time, and just as soon as he came in he said, "Well, boys," he says, "I hear you want the raise. Now, you want to know how much it is, how much it is, how much it is going to be. Well," he says, "it is going to be 15 cents an hour." He says, "you think that is fair?"

Naturally, we all agreed.

He says, "Well, that won't be the last of it, of this matter," he said, "later on, if things improve, in a couple of months you will be getting more money."

Then he said—I can't state absolutely if he stated anything about the union there at that time—but he says, "You are all with me, aren't you, boys?"

And, of course, we all said, "Yes." So Lou Swartz spoke up and said, "Well, you don't have to worry about the boys. They will be all right. They are with you."

Q. Did Mr. Bothman say anything about the scope of this raise?

A. It was to be in effect immediately, retroactive to Monday of the week, of that week; and, of course, he said that later on if conditions warranted we could get a little more money.

Q. To whom did this raise apply?

(Testimony of Donald Quinn.)

A. Just to the cutters only. [219]

Q. Was anything said about that?

A. Yes.

Q. What was said?

A. He said, "Now, I want you boys"—

Q. Who is "he"?

A. Mr. Bothman. Pardon me. Mr. Bothman said, "I want you boys to keep that just to yourselves, because, after all, if it gets around to the girls that you got a raise, they will want a raise too. So just keep your mouths shut, and work harder, so I won't have to put on any more help."

And that's all that he said.

Q. Now, directing your attention to July 21, 1941, I will ask you whether or not you on that date went to the union hall of the Cutters organization?

A. Yes, I did.

Q. Did you at that time sign anything?

A. I signed a card.

Mr. Nicoson: Will you mark this, please?

(Thereupon the document referred to was marked as Board's Exhibit No. 10, for identification.)

Q. (By Mr. Nicoson) I hand you a card which, for the purpose of identification, has been marked Board's Exhibit 10, and ask you to examine it and state whether or not you know what that is?

A. I signed that card on Monday, the 21st of July. [220]

Q. Is that your signature there?

A. That's my signature.

(Testimony of Donald Quinn.)

Q. Did you sign this at the union hall?

A. I did.

Q. This is the same card?

A. That's right.

Mr. Nicoson: We offer it in evidence.

Mr. Shapiro: No objection.

Trial Examiner Erickson: It will be received.

(Thereupon the document referred to, heretofore marked as Board's Exhibit 10, for identification, was received in evidence.)

### BOARD'S EXHIBIT No. 10

I, the undersigned voluntarily designate the International Ladies' Garment Workers' Union as my sole representative in collective bargaining with my employer.

Date 7/21

Name: Donald P. Quinn.

Address: 227 S. Columbia Ave.

S. S. No. 562-07-8788.      Craft: Dress Cutter

Firm: Lettie Lee.

Union Label 111.

(Vuelta)

---

Q. (By Mr. Nicoson) Who went with you to the union hall that night, if anybody?

A. Lou Baliber, Angelo Castella, Joe Sardo, Vito Cimarusti, and Nolan Berteaux.

Q. Do you know whether any of the rest of them signed cards that night?

A. Yes. I was present. They all signed cards.

(Testimony of Donald Quinn.)

Q. They all signed cards. Did you see anyone at the union hall that night that you had a conversation with, outside of the six of you?

A. Yes, Mr. Harry Scott.

Q. What did you talk to Mr. Harry Scott about, if anything?

A. Well, we talked about that we figured we had the majority [221] of the cutters at the shop right here present, and what protection we would get in case there was a strike, and what conditions were in the new union contract for the year, for the coming year.

Well, he told us that he had an established precedent about organizing a unit in a factory, and that we didn't have to worry about our jobs, that we would have them, and that at present he was very busy, he couldn't go over the contract with us, but if we would meet with him Wednesday night, he would go over the contract with us.

Q. Did you meet with him later on about that?

A. Yes, we did.

Q. How long after that?

A. Wednesday night, the following Wednesday, the 23rd of July, we met him at the Alexandria Hotel at around 5:30 or 6:00 o'clock, I believe it was.

Q. What occurred? First, who was present?

A. Lou Baliber, Angelo Castella, Joe Sardo, Vito Cimarusti, Nolan Berteaux and myself.

Q. Anyone else?

A. Harry Scott, and Lee Shapiro—Leo Shapiro.

(Testimony of Donald Quinn.)

Q. What was discussed at that time, and state who made the statements, if any were made?

Mr. Shapiro: It is understood that I have the same objection to all of this testimony, which I claim is hearsay? [222]

Trial Examiner Erickson: You may have a continuing objection, but the objection is overruled, you understand.

Mr. Shapiro: I understand.

The Witness: Mr. Harry Scott went into a discussion of the contracts. We wanted to know what the wages were going to be for cutters, how many hours a week, and what protection the union was going to give us. And he told us we didn't have to worry about it. Of course, we wanted to know when the strike was going to be, because we all knew there was going to be a strike, because they had pamphlets in front of the building that there was going to be a strike in the industry.

Q. (By Mr. Nicoson) Did you know whether or not you were going to participate in the strike at that time?

A. Well, yes, we did, because we had joined the union, and we had already told Scotty that he could bargain for us Monday night, because we had the majority of the cutters. Whether he did or not, we didn't know at the time. And, of course, we knew if there was a strike in the industry and Lettie Lee refused to negotiate before the strike, we would naturally be involved too.

We wanted to know when the strike was going



(Testimony of Donald Quinn.)

to be. He told us he didn't know himself, it could be tomorrow, next week, next month, but just to be prepared for it.

Q. Did you go to the plant the next day? [223]

A. Yes, sir. I started for work the next morning around 7:30. When I got in front of the building, there was a big picket line there, and announcing that the strike was on, so I parked my car and went to the restaurant where we always eat, and some of the fellows were there; that is, a couple of them, Nolan Berteaux, and Joe Sardo, and Mort Litwin was there at the time. I am not sure whether he was there when I come in, but he came in presently, and we asked him what he was going to do. He said he would stick by us, that if we stayed down, he stayed down.

Then later on Lou Swartz came in, and Scotty came down and talked to us. He didn't have much to say. But later on Mr. Bothman walked in, I imagine around 9:30 or 10:00 o'clock, and he said, "Well, boys," he says, "I didn't think you would do this to me." He says, "Everybody is working in the plant. You are the only fellows out. Haven't I treated you O. K.?"

We said, "Yes, you have, but we are staying down. We belong to the union now, and we can't go up now, unless the union—unless we have a union contract."

So he says, "Well, listen, boys. There is no hard feelings." He says, "You want to stay down, that is all right with me. If you want to come back to

(Testimony of Donald Quinn.)

work, that's good and fine." And then he left there.

After that we left for the union. Some of the boys and [224] myself went over to the union to register, and they told us we didn't have to picket. That is why none of us picketed those first few days. And Lou Swartz came up there, and, of course, I was with Mort Litwin at all times, because he is a good friend of mine. So he registered there too with me. And a few of the girls that came out in sympathy with us, they registered too.

Q. Do you remember some time in September whether or not you attended a meeting in Mr. Sokol's office?

A. Yes, sir. We went to his office, I believe in September, I believe it was on a Friday.

Q. Well, do you remember going there?

A. Yes, I remember going there.

Q. Do you remember about when it was?

A. When it was, I am not sure of the date, but it was on a Friday.

Q. Was it the forepart, the middle part or the latter part?

A. Of September?

Q. Yes.

A. I think it was about the middle part of September.

Q. Did you at that time have a conversation or attend a conversation with Mr. Bothman in front of the plant?

A. Yes.

Q. About how long later?

A. Well, that meeting—now I recall it—that

(Testimony of Donald Quinn.)

meeting [225] with Mr. Sokol was on a Friday, and on the Saturday, the next day, we were picketing out in front. We would work in shifts on these picket lines, and Mr. Nolan Berteaux, Vito Cimarusti, Nick La Caze and myself were on that shift when Mr. Bothman came by.

So he called us over to the side of the building, to the front of the lobby there, and he said, "Now, Vito Cimarusti," he said, "I want you to come back to work." And he told the rest of us the same thing, he wanted——

Q. What "rest of us"?

A. He told Nolan Berteaux, he said, "want you to come back to work."

And then he told me "Don Quinn, I want you to come back to work, as an individual." He said, "I don't want to talk to groups. I don't want to have nothing to do with those guys up there." He didn't say "guys."

Q. What he say?

A. Well, he called them sons of bitches and stinkers. "I don't want to have anything to do with those chiselers up there," he said, "I want to talk to you fellows just alone." He says, "You know, they are going to drop you anyway. I want just you alone. I want you individuals to come up to work."

I said—well, I spoke up and I said, "Well, how about Joe Sardo, and Angelo and Louis Baliber?"

[226]

(Testimony of Donald Quinn.)

He said, "I don't want to have anything to do with those two stinkers, and that ex-convict."

Q. Did he say anything else at that time?

A. No, that's about all.

Q. Did any of your group make any reply?

A. No. We said we wouldn't go up unless we went up as a group, not as individuals, that he would have to speak to the union about it.

Q. You did say that?

A. Yes, I said that myself.

Q. Was that about all that occurred at that meeting?

A. Yes, I believe that was about all.

Q. After that meeting did you or did you not have a telephone conversation with Lou Swartz?

A. Yes. One of the guards gave me a card to call him up, that he wanted to speak to me personally. So I called him up that evening and asked him what he wanted to know.

Q. Before you go into that, how long was that after you had this meeting with Mr. Bothman?

A. I believe it was the following Tuesday. I am not certain about the date, but, anyway, I called him that evening.

Q. By phone?

A. By phone. So I asked him what he wanted. He says, "Well, I can't talk to you over the phone." He said, "I want you to come over to the house." [227]

I said, "Why can't you speak over the phone?"

(Testimony of Donald Quinn.)

He said, "There are too many ears." He said, "You don't have to be afraid over here."

I said, "I am not afraid of nothing."

He said, "What night will you be over?"

I said, "I will be over there Sunday."

Q. Did you go over there?

A. I went Sunday.

Q. What transpired, and tell us any statements that were made, and who made them.

A. Mr. Lou Swartz met me at the door and took me around to the back yard, and he started talking about coming back to work, asking me to come back to work. He said, "You know I have a full crew working up there."

I said, "You know I can't go back to work now." I said, "If I come back, I have to come back with the rest of the boys."

"Well," he said, "that will never happen. You fellows haven't got a chance. I better let you know now. You just haven't got a darned chance. The union is going to drop you in a couple weeks. I have the inside information, and I know that the union is going to drop you in a couple of weeks, and you won't be able to get a job anywhere in town. You will be blacklisted."

I said, "I will have to take my chances, as they are." [228]

He said, "You fellows double crossed me. You didn't include me in your meeting."

I says, "How could we include you? You are the foreman, and practically the general manager."

(Testimony of Donald Quinn.)

He had told me previously, before we were given the raise, he had told me he was going to quit, oh, about six weeks before we even got the raise, that he was going to quit Mr. Bothman and go into business for himself, and that Mr. Bothman had given him a raise, and had agreed to a bonus of something like two or three per cent of the profits he was to get.

Naturally, I couldn't confide in him and I knew the rest of the boys couldn't confide in him about the rest of the union meetings, because we didn't consider him as a worker, because he was getting a part of the profits.

Q. Did you tell him that?

A. I told him that. He said, "You know, I stood to lose a lot by going on strike for you fellows."

I said, "Sure. You were making good money. It wasn't necessary for you to come down." But I said, "Mortimer came down, and we signed the cards, we signed at Sokol's office."

He said, "Mortimer should be included in that meeting."

I said, "After all, Mortimer is your brother-in-law." I said, "I don't think he would go behind our backs and tell [229] you about the meetings, but we couldn't take any chances, because you know how Mr. Bothman was about the union, because before we even went to work there, he was asking if I was a union member, because I knew a couple of fellows, and he asked them, they were union fellows, and he would say, 'Well, take their name.' " I says, "So,



(Testimony of Donald Quinn.)

of course, I told him I wasn't a union member, so Mr. Bothman hired me."

Q. Did I understand you correctly to testify that Mr. Swartz asked you to come back to work?

A. Yes, sir.

Q. Did he mention anyone else in that respect?

A. He didn't mention—well, I am not so sure about Vito. He said, "If you want to speak to Vito Cimarusti, and maybe Nolan, too, and you can talk to Nolan too, if you like."

So, of course, he wouldn't tell me why the union was going to drop us. He told me he was a member of Local 10 back in New York, I don't know whether that is true or not, and that's why he dropped out, and that this strike was going to end, and that, regardless, Mr. Bothman was even at that period that he spoke to me trying to get a contract with the Government to make uniforms, and he said, "You know, the union isn't going to strike against the Government."

I said, "I don't know anything about that."

He says, "Miss Lee is going back to Texas, and Mr. Bothman will be general manager of the concern, and I will [230] go in just as a plain ordinary cutter."

So, well, we talked about different things there, I mean talked about sports we were interested in, bowling, and things like that.

Q. Was anything said at that time concerning the signing of a contract?

(Testimony of Donald Quinn.)

A. Oh, yes. He said Mr. Bothman would never sign a contract—would never sign a contract, he would close the shop first. Of course, that was always repeated every time he talked to me, because he spoke on another time after. And he asked me, you know, the next day to first speak to Vito and to call him at 10:00 o'clock the next morning, and give him my answer.

Q. Told you to call whom?

A. Lou Swartz.

Q. And did you?

A. I talked to Vito in the morning on the picket line.

Q. By Vito you mean?

A. Vito Cimarusti, and Nolan Berteaux.

I told them Lou Swartz had told me to talk to them, if they wanted to come back to work.

They said, no, we would all go back as a group, and everybody go back.

So I called Lou Swartz at 10:30 that day, and I told him I wasn't coming back to work, and none of the other [231] fellows were interested in coming back either.

He said, "I think you are damned fools. You are just a chump, because you just mark my words, you are going to be holding the sack in a couple of weeks."

So that was all. I went——

Q. After that conversation did you later have a conversation with Mr. Bothman?

A. Well, several times on the picket line he used

(Testimony of Donald Quinn.)

to stop us and tell us, "Well, don't be damned fools, fellows. Go back to work. Your job is open up there."

Q. Do you recall whether or not you had such a conversation after you talked to Mr. Swartz?

A. I believe I did several weeks afterwards on the picket line; I mean, the group, two or three fellows there. I mean, he asked us every so often to come back to work.

Q. Have you since that time had any further conversation with Mr. Swartz in this connection?

A. No, I haven't.

Q. Or with Mr. Bothman?

A. No, I haven't.

Mr. Nicoson: Cross examine.

#### Cross Examination

Q. (By Mr. Shapiro) Are you working now, Mr. Quinn? A. No, I am not.

Q. Have you worked at all since you went out on strike on [232] July 24th? A. No, I haven't.

Q. Not at all?

A. No, I haven't. In a cutting department?

Q. I beg your pardon? A. Cutting?

Q. Well, have you had any cutting?

A. No.

Q. Have you done any other work?

A. No. No, I wouldn't call that cutting. I was just delivering, helping deliver some things for a friend of mine.

Q. Who was that? A. The friend of mine?

(Testimony of Donald Quinn.)

Q. Yes. A. Tom Phillips.

Q. Don Phillips? A. Tom Phillips.

Q. How long did you work for him?

A. Just a couple of hours.

Q. Just on one day? A. One day?

Q. Yes. A. Just the one day.

Q. Well, have you had any regular employment?

A. No regular employment. [233]

Q. Since you went out on strike?

A. No, I haven't.

Q. Have you had any work for anybody except Tom Phillips? A. No, I haven't.

Q. Have you received any money from the union in any form? A. I have received relief, yes.

Q. How much have you received?

Mr. Nicoson: I object to that.

Trial Examiner Erickson: Sustained.

Q. (By Mr. Shapiro) Have you been employed by the union?

A. No, I haven't been employed by them. No, I haven't.

Q. Received any salary from them of any kind?

A. No, none, of any kind.

Q. Now, you went to work for Lettie Lee on June 11, 1941; is that right? A. June 11, 1941?

Q. Yes. A. No.

Q. When did you go to work for Lettie Lee?

A. I went to work for them in September of 1940.

Q. Who hired you?

A. I believe Mr. Bothman did. I walked in

(Testimony of Donald Quinn.)

there. As I entered the door, I rang the bell to ask for the head cutter, and they started to call Lou Swartz toward the window, and as he came to the window, Mr. Bothman went by there and he [234] said, "I think I know you."

I said, "Yes, I put in an application several months ago about a job."

And he said, "How long have you been working on silk dresses?"

And I said, "About six years."

And he asked me the places, and I told him.

He said, "Do you belong to a union?"

I said, "No."

Then he told Lou Swartz to put me to work. So I went to work that day.

Q. You went to work that day? A. Yes.

Q. Did you belong to the union at that time?

A. No.

Q. Did Mr. Bothman tell you that if you did belong to the union he wouldn't hire you?

A. No, he did not.

Q. Now, at this first conversation on June 11th in the cutting room, what did you or the other employees there have to say in reply to the remarks made by Mr. Bothman?

Mr. Nicoson: I object to that, unless he specifies the remark. The testimony is that there were several remarks, I think.

Mr. Shapiro: Well, this is cross examination. [235]

(Testimony of Donald Quinn.)

Trial Examiner Erickson: Do you understand the question?

The Witness: No, I don't. If he can specify the remark——

Q. (By Mr. Shapiro) All right. You say that Mr. Bothman said the union won't do anything for you, it is just a racket, and all they want is your dues, and so on? A. Yes.

Q. Did you make any reply?

A. Well, I knew from past and so on?

A. Yes.

Q. Did you make any reply?

A. Well, I knew from past experience, from fellows that had applied for work there, they had said that if they belonged to the union they didn't get the jobs, so I know how anti-union Mr. Bothman was, because I remember him in the strike of 1933. Well, at that time I was a cutter, an assistant cutter, I should say, in 1933.

Q. Mr. Quinn, I only asked you what you said, if anything in reply to what Mr. Bothman said.

Mr. Nicoson: He is about to tell you.

Mr. Shapiro: Well, let him tell us without giving his life history.

The Witness: Well, knowing that he was so anti-union——

Mr. Shapiro: Just a moment.

The Witness: Let me just go on. Then you can strike it out.

Mr. Shapiro: Well, I suggest, your Honor, that



(Testimony of Donald Quinn.)

the [236] witness be required to answer the question.

Trial Examiner Erickson: Yes, just answer the question.

The Witness: Well, let's see. What did I say? I don't remember the remarks we made. I can't remember definitely what I said.

Q. (By Mr. Shapiro) Did you say anything?

A. Oh, yes. We spoke—we were all speaking there.

Q. How long did the meeting take?

A. Oh, I imagine about 20 minutes, 25 minutes.

Q. Did the other men present take part in the conversation?

A. Yes, we all took part in the conversation.

Q. Did Vito have anything to say?

A. Well, I don't—I couldn't say definitely if it was just Vito that said anything.

Q. There was conversation back and forth, wasn't there?

A. That's right.

Q. At the next meeting, which was some two or three or several days later, that is the meeting at which Mr. Bothman said that he was going to give you a raise and the raise was going to be 15 cents an hour; is that right?

A. That's right.

Q. When he told you he was going to give you a raise, did he say that to continue on in his employ and receive the wage would depend upon your non-affiliation with a union?

A. No, he did not say that. [237]

Q. He didn't mention that subject, did he?

A. No.

(Testimony of Donald Quinn.)

Q. How long did that meeting last?

A. Oh, I imagine about 15 minutes. It didn't last very long.

Q. He said, "Are all you boys with me?" And what did you say?

A. What did I say?

Q. Yes.

A. Well, we said, "Of course we are with you." What else could we say?

Q. I don't know. I am only asking what you did say. Was there any other conversation on your part at that second meeting?

A. No, not that I can recall.

Q. Now, did all of you six men sign the union cards at the same time on July 21st?

A. We all signed there. We understood one of the fellows to say he had signed before, a couple of fellows had signed before, but we wanted them to re-sign again. We wanted all to sign in a bunch.

Q. And you all signed in the union hall on July 21st?

A. On a Monday, that's right.

Q. Prior to that time you had no union connections of any kind? [238]

A. No.

Q. Did you tell Mr. Bothman that you wanted to join the union or that you contemplated joining the union?

A. I didn't tell him that, because I would have been fired.

Q. Regardless of whether you would be fired or not, did you tell Mr. Bothman that you wanted to join or intended to join the union?

A. No, I did not.

(Testimony of Donald Quinn.)

Q. He didn't tell you not to join the union, did he?      A. No.

Q. On July 24th, there was a strike called; is that correct?      A. That's correct.

Q. Do you know how many of the employees of Lettie Lee walked out on that strike?

A. I believe about 30 registered at the union. All the cutters that signed up walked out.

Q. You mean the six cutters that signed up walked out?

A. That's right. Some of the assorters came out with us.

Q. How many assorters?

A. Let's see. There was Marie Chavez; Sarah, I don't know her last name, I can't pronounce her last name; and Saloma; Frances, who is an errand girl, and assorter. I believe that's all. Then there was some operators, and finishers, and a couple of the drapers that came out in sympathy with us.

Q. The strike wasn't limited then to cutters? [239]

A. It was cutters, so far as I know. It was called because he wouldn't negotiate for the cutters. That is what I understood it to be.

Q. But persons in other crafts than cutters did walk out, didn't they?

A. Oh, yes, they did walk out.

Q. And you think about 30 walked out altogether?      A. I believe so.

Q. As a matter of fact, wasn't it about 20?

A. No, it was more than that. I believe the

(Testimony of Donald Quinn.)

union has the record of the registration on that day. I am sure it will show more.

Q. Do you know how many employees Lettie Lee had in production capacities on July 24th, the date of the strike?

A. I don't know the exact figure. I figure around 70 or 80. I am not sure.

Q. As a matter of fact, don't you know it was over a hundred?

A. No, I don't know that. All I was interested in was the cutting department. That's all I was interested in. That's all I did.

Q. Mr. Bothman has repeatedly told you you can come back to work at any time you want to?

A. Yes, he asked me to return.

Q. How many times has he asked you to come back to work?

A. Oh, I believe he has asked me—let me see—about [240] three times.

Q. When was the first time he asked you to come back to work?

A. Well, he asked us all as a group, not as an individual. He just said, "Come on, you fellows, come on up to work."

Q. When was that?

A. When we were on the picket line. Oh, I imagine a week after the strike or two weeks after the strike.

Q. Did you go back to work?

A. No, we didn't.

(Testimony of Donald Quinn.)

Q. When was the last time he asked you to come back to work?

A. The last time was the day, that Saturday following the visit to Sokol's office on a Friday, when he asked us separately by name, said, "Don Quinn, I want you to come back to work," and "Vito Cimarusti, I want you to come back to work," and "Nolan Berteaux, I want you to come back to work." And there was a fellow that came by, I don't know whether he is a salesman, but Mr. Bothman asked him to come over and witness it.

So Angelo Castella was walking by at the time, and I called him, and Mr. Bothman said, "Never mind him."

Q. On the first time when he asked you to come back to work, he referred to all of you fellows to come back to work?

A. Not all of us were on the picket line. [241]

Q. Well, how many of you were there?

A. Just Nolan, myself, and I believe Vita Cimarusti. I am not positive.

Q. Who else? A. I think that's all.

Q. And he asked you all to come back to work?

A. Yes.

Mr. Shapiro: That is all.

#### Redirect Examination

Q. (By Mr. Nicoson) Did you ever hear Mr. Bothman say that he would like to have Mr. Sardo, Mr. Baliber and Mr. Castella come back to work?

A. No. He absolutely stated definitely that he didn't want them back, he wouldn't have them back.

(Testimony of Donald Quinn.)

Q. Were you ever requested by Mr. Bothman to return to work as a group? A. No.

Q. He made it very pointed that it was individually? A. That's right.

Q. And not as a group? A. That's true.

Mr. Nicoson: That is all.

Recross Examination

Q. By Mr. Shapiro) Did Mr. Bothman tell you why he didn't want Sardo to come back to work? [242]

A. Trouble maker. He said Angelo and Lou Baliber are trouble makers.

Q. Did he give any other reason?

A. Well, of course, he says about Joe Sardo being an ex-convict, that's all I know, and he called Angelo and Louis stinkers. So what he meant by that, I don't know.

Q. Mr. Bothman never told you that because you had joined the union he would not take you back to work?

A. Well, we told him there at the time the union was representing us and he said, "Well, I don't want to have anything to do with the union. I am asking you to come back to work."

Q. He didn't refuse to take you back because you belonged to the union, did he? A. No.

Mr. Shapiro: That is all.

Redirect Examination

Q. (By Mr. Nicoson): But he had put that qualification on it?



(Testimony of Donald Quinn.)

A. He did. He absolutely said he didn't want to have anything to do with them up there.

Recross Examination

Q. (By Mr. Shapiro): Did he say why?

A. Well, he had already stated why, the reasons for it, when we had the question of the raise, and several times [243] after that.

Mr. Shapiro: That is all.

Mr. Nicoson: That is all.

(Witness excused.)

Mr. Nicoson: Nolan Berteaux.

---

NOLAN BERTEAUX,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Nicoson:

Q. Please be seated, and state your name.

A. Nolan Berteaux, N-o-l-a-n B-e-r-t-e-a-u-x.

Q. Were you on or about June 11, 1941, in the employ of Lettie Lee, Inc.?      A. I was.

Q. When did you begin to work for Lettie Lee?

A. About August, 1940.

Q. And in what capacity?

A. As a cutter.

Q. How long had you been engaged in the cutter's business?

(Testimony of Nolan Berteaux.)

A. About 10 or 11 years.

Mr. Nicoson: Mark that, please.

(Thereupon the document referred to was marked as Board's Exhibit No. 11, for identification.)

Q. (By Mr. Nicoson): I hand you a card, which, for the purpose [244] of identification, has been marked Board's Exhibit 11, and ask you to examine it and state if you know what it is?

A. That is the card I signed in the union on the 21st of July, 1941.

Q. Is that your signature on there?

A. That's right.

Mr. Nicoson: I offer this in evidence.

Mr. Shapiro: No objection.

Trial Examiner Erickson: Received.

(Thereupon the document heretofore marked as Board's Exhibit No. 11, for identification, was received in evidence.)

### BOARD'S EXHIBIT No. 11

I, the undersigned voluntarily designate the International Ladies' Garment Workers' Union as my sole representative in collective bargaining with my employer.

Date 7/21/41.

Name, Nolan Berteaux.

Address, 936 W. 30th Street,

S. S. No. 563-05-6463. Craft, Cutter.

Firm, Lettie Lee.

(Vuelta)

Union Label 111.

(Testimony of Nolan Berteaux.)

Q. (By Mr. Nicoson): How did you happen to sign that card, Nolan?

A. Well, the majority of the cutters decided they wanted to have the union represent them, so we decided that day to go up there and sign up the cards as a group.

Q. Who went with you, if anyone?

A. Joe Sardo, Vito Cimarusti, Angelo Castella, Louis Baliber, Don Quinn and myself.

Q. Directing your attention to on or about the last week in September, 1941, I will ask you if you were in front of the building in which the Lettie Lee Company is housed? A. Yes, I was.

Q. Who was there with you at that time, if anyone?

A. Don Quinn, Vito Cimarusti, and Nick La Caze. [245]

Q. Did you at that time see Mr. Bothman?

A. Yes, I do recall seeing him at that time.

Q. And was there a conversation in which Mr. Bothman participated, that you heard?

A. Yes, there was.

Q. Will you tell us what happened, and what was said, and who said it?

A. Well, Mr. Bothman called us over, and he said, "Why don't you boys go back to work?"

So we told him, "Well, we are in now, we are in the union, so we couldn't go back."

(Testimony of Nolan Berteaux.)

“Well, how about the whole crowd—everybody?”

Q. Who said that?

A. Who said what?

Q. Who said “How about the whole crowd—everybody?”

A. One of us. I heard the conversation.

Q. Was it Mr. Bothman?

A. No, one of our group.

So Mr. Bothman called us each by name, and he said, “Now, listen. I don’t want to have anything to do with any group of you, the union, or anybody. I will offer you a job as an individual.” He pointed his finger, “You can go up to work right now, Don Quinn. You can go up to work right now, Nolan Berteaux, You can go up to work right now, Vito Cimarusti. Don’t tell me about that stuff, because [246] that way you will never get back to work.”

Q. Did anything further transpire about that time?

A. That’s about all I recall.

Q. Was anything said about the other three men?

A. Well, we had asked him, and he said he didn’t want—he didn’t want Sardo, Louis and Castella and he says, “Sardo, he is a stinker, I never did want him in the place,” and he said Louis and Angelo were trouble makers, so he didn’t want them around, “but you guys, you come if you want to.”

Mr. Nicoson: That is all. You may cross examine.

(Testimony of Nolan Berteaux.)

Cross Examination

By Mr. Shapiro:

Q. When you went to work in August, 1940, did you belong to any union?

A. No, I didn't at the time.

Q. Whom did you talk to about your employment?

A. As a matter of fact, I didn't talk to anybody. I was sent for.

Q. Were you asked whether or not you belonged to the union?

A. No. I went right in and went to work. I had been working in a scab shop next door, so I guess Mr. Bothman didn't think it was necessary to ask me.

Q. Did anybody tell you at that time, or at any other time, that if you joined the union you couldn't work for Lettie Lee?

A. No.

Q. How many cutters were there at Lettie Lee on July 24, 1941? [247]

A. Eight cutters.

Q. Who were they?

A. Vito Cimarusti, Joe Sardo, Louis Baliber, Angelo Castella, Nolan Berteaux, and Mort Litwin. That is seven. I was counting Lou Swartz. I don't guess you call him a cutter.

Q. And six of those went out on strike; is that correct?

A. Six of those signed up with the union.

Q. How many persons were employed in the

(Testimony of Nolan Berteaux.)

area enclosed by that partition that was testified to this morning?           A. About 15.

Q. What kind of work did Eunice Usher do?

A. Well, she was a sloper.

Q. Do you draw a distinction between a sloper and a cutter?

A. Did you say, do I draw a distinction, or could I draw——

Q. Do you?           A. Yes, I do.

Q. Do you classify her as a cutter?           A. No.

Q. She uses the same tools you use, doesn't she?

A. Yes.

Q. She cuts materials from a marker, doesn't she?

A. Well, that isn't putting it very fair. You say she cuts materials from a marker. Anybody can cut material from a mark. You can cut material from a mark. That doesn't [248] make you a cutter.

Q. Well, I don't think I can cut material from a mark, or anything else. In what respect does the work that Eunice did differ from the work that you did?

A. I think you could put it in a few words by saying she don't have to have any experience in the cutting room. A person can come in and give them a few little instructions, and tell them to follow out these little lines, and they can do it in a day or so. There is no experience attached to the job.

Q. Do you knew whether or not Eunice Usher has ever cut a complete garment or not?



(Testimony of Nolan Berteaux.)

A. I don't know anything about Eunice Usher, except she was just employed as a sloper there.

Q. You heard the testimony given by Vito this morning?

A. Some parts of it.

Q. Were you in the court room all the time?

A. Not all the time.

Q. Now, none of the work that you do as a cutter is complete in and of itself, is it? I mean by that, when you finish your cutting operations, there is still work to be done on the garment before it is finished. Isn't that true?

A. It is true that you couldn't take it out and sell it in the store. That's right. But so far as the cutting is concerned, that is through. [249]

Q. Then it has to go to somebody else to be finished?

A. Has to go to the operator.

Q. Has to go to the operator to be sewed together?

A. To be sewed together, assembled.

Q. If the garment is completed so far as the cutting is concerned when you are through with it, why is it necessary for Eunice or anyone else to slope it?

A. You see, the work that Eunice does, the sloping on this pleating, and so forth, it is usually done before I get the order to cut the dress, so when she does the sloping I drop it all in the bundle when I am through cutting, and it is sent to the assorter. In other words, Eunice, her little part of the work is just done on the outside. I don't cut the dress until she does the little sloping.

(Testimony of Nolan Berteaux.)

Q. Isn't it just the reverse of that, Mr. Berteaux? Don't you cut the garment first, and then doesn't it go to Eunice to be sloped?

A. The part of the work that Eunice works on, I don't have anything to do with it, I mean the cutting, and so forth. It is only the pleating, or something like that, which is done outside of the factory.

Q. How many times did Mr. Bothman ask you to come back to work?

A. Only that one time I stated.

Q. When was that? [250]

A. It was some time in September, I suppose. I don't know the exact date.

Q. Mr. Bothman didn't tell you that as long as you belonged to the union, he wouldn't take you back, did he?

A. Mr. Bothman didn't tell me that in no specific statement, but he made it very plain that if I did belong to the union not to even apply for the job.

Q. When did he make that plain?

A. In this conversation I had in September.

Q. What did he say?

A. He said he didn't want to have anything to do with any groups, I should come to work as an individual and not as a group, or not being represented by anybody else but myself. He said, "I want to deal with you, and nobody else."

Q. Were you present at the meeting on June 11th, when the subject of a raise was discussed?

(Testimony of Nolan Berteaux.)

A. I was.

Q. Did you take part in the conversation?

A. I don't recall saying anything.

Q. You didn't say anything? A. No.

Q. Did Vito say anything?

A. To tell the truth, I can't tell who said and who didn't say it, outside of Mr. Bothman. He did a lot of talking.

Q. Did you ask for the raise prior to that meeting? [251]

A. I had informed Mr. Lou Swartz what he wanted Mr. Bothman for before that, and I am pretty sure he had informed Mr. Bothman that was it.

Q. As I understand, the men had informed Mr. Swartz that they wanted a raise, and you said Mr. Swartz informed Mr. Bothman?

A. I only am thinking that. I am not sure.

Q. Are you working now?

A. No, I am not.

Q. Have you done any work since you went out on strike? A. No.

Q. Of any kind? A. No.

Q. Haven't earned any money at all?

A. No.

Q. Have you received any money from the union?

A. Have I received any money from the union?

Q. Yes. A. I received a loan.

Q. Of how much?

Mr. Nicoson: I object.

(Testimony of Nolan Berteaux.)

Trial Examiner Erickson: Sustained.

Mr. Shapiro: I think that is all.

Mr. Nicoson: That is all.

(Witness excused.) [252]

Trial Examiner Erickson: We will adjourn until 10:00 o'clock tomorrow morning.

(Whereupon, at 4:30 o'clock p.m., January 26, 1942, the hearing in the above entitled matter was adjourned until Tuesday, January 27, 1942, at 10:00 o'clock a.m.) [253]

[Title of Board and Cause.]

Room 808, United States Post Office and  
Court House Building,  
Spring, Temple and Main Streets,  
Los Angeles, California,  
Tuesday, January 27, 1942

The above-entitled matter came on for hearing, pursuant to adjournment, at 10:00 o'clock a.m.

[254]

Proceedings

Trial Examiner Erickson: The proceeding will come to order.

Mr. Nicoson: Louis Baliber.

## LOUIS BALIBER,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

## Direct Examination

The Witness: Louis Baliber, B-a-l-i-b-e-r.

Q. (By Mr. Nicoson): Where do you live, Mr. Baliber?

A. 1606 South Shenandoah, Los Angeles.

Q. Have you ever been employed by the Lettie Lee Company? A. Yes, sir.

Q. When did you first begin working for them?

A. November 13, 1939.

Q. How did you happen to go to work for them?

A. Well, I filed an application in the office for a job, and then around in July, 1939 I was called by postal card, and I came and it was too late, the job was filled. Then around November 1939 Lou Swartz called me at my home, and I spoke to him over the phone, and we discussed the price, and all that. Then I went down to the place and I spoke to him, and he hired me.

Q. That is when you began working? [256]

A. Yes, sir.

Q. You have been working for them ever since?

A. Ever since.

Mr. Nicoson: Mark this, please.

(Thereupon the document referred to was marked as Board's Exhibit 12, for identification.)

(Testimony of Louis Baliber.)

Q. (By Mr. Nicoson) I hand you a card which, for the purpose of identification, has been marked Board's Exhibit 12, and ask you to examine it and state whether or not you know what it is?

A. This is a card that I signed in the union hall on the 21st of July.

Q. Is that your signature there?

A. Yes, sir.

Q. How did you happen to sign this card?

A. Well, I have been a union member before, but, oh, the boys said they wanted to see everybody sign a card, so I signed a card there.

Q. How long had you been a union member?

A. I have been a union member from New York; that is, 1926.

Q. Were you a union member when you went to work for Lettie Lee?      A. Yes, sir.

Q. Was anything said to you at that time?

A. Nobody asked me anything. [257]

Mr. Nicoson: I offer this in evidence.

Mr. Shapiro: No objection.

Trial Examiner Erickson: It will be received.

(Thereupon the document heretofore marked as Board's Exhibit 12, for identification, was received in evidence.)

## BOARD'S EXHIBIT No. 12

I, the undersigned voluntarily designate the International Ladies' Garment Workers' Union as my sole representative in collective bargaining with my employer.



(Testimony of Louis Baliber.)

Date: 7/21/41

Name: Louis Baliber.

Address: 1482 S. Shenandoah St.

S. S. No. 082-09-2284.

Craft: Cutter.

Firm: Lettie Lee.

(Vuelta)

Union Label 111.

(Vuelta)

---

Q. (By Mr. Nicoson) Now, at this meeting at the union at which you signed that card, was there anyone else present from the Lettie Lee Company?

A. Yes.

Q. Who was present?

A. There was the rest of the cutters, Vito Cimarrusti, and Angelo Castello, Don Quinn, Nolan Berteaux, Joe Sardo and myself.

Q. Do you remember about a strike being called at Lettie Lee on July 24, 1941? A. Yes, sir.

Q. Were you present in front of the plant that morning?

A. Not exactly in front of the plant. When I came to work that morning, I saw the mass picket line on Los Angeles Street, so we had orders from the union officials in case we see the strike we should meet in a certain place. Well, we met on 7th Street in the Exchange Restaurant, and Joe Sardo and myself were standing in front of the restaurant.

Q. Did you see anyone there connected with the company?

A. I did a little—a few minutes later Lou

(Testimony of Louis Baliber.)

Swartz pulled [258] by with his car and he tooted his horn, and I turned around to see who it was, and it was Mr. Swartz, and he was across the street and he called me over.

So I went over to him, and he says, "Come on, get in the car and I will take you into the building. You don't have to be afraid."

I says, "Look, you better go see the rest of the boys. I am not going in without them." They was all in the restaurant. That was all that was said, and I walked away from him.

Q. Did you see Mr. Bothman that morning?

A. No, sir.

Q. Do you remember a meeting in the early part of June at which a raise was discussed among the cutters in the Lettie Lee plant? A. Yes, I do.

Q. Prior to that time did you have any discussion with Mr. Swartz concerning the union?

A. I did sometimes in April. He asked me a question. He used to be on the bowling team, and Mr. Swartz, myself and his brother-in-law, Mort Litwin, were sitting in the restaurant and eating. That restaurant is on Los Angeles Street, and he asked me the question. There was a rumor of the union at that time calling a strike, and he says to me, "Lou"—He called me "Louis"—he says, "Louis, what is your intention? Would you join the union or not?" [259]

I says, "Well, I will do what the rest of the boys will do."

Well, he didn't know I was a union man.

(Testimony of Louis Baliber.)

Then he says to me, "Will the boss or the union give you a living?" I didn't answer him to that respect. That was all that was said. In other words, meaning if you joined the union you are out of a job. That's the way I took it.

Mr. Shapiro: I move to strike the last portion of the witness' answer on the ground it calls for a conclusion.

Trial Examiner Erickson: "That's the way I took it" will be stricken.

Mr. Shapiro: Is it still our understanding that my objection goes to all testimony as to conversations between Mr. Swartz and any of these other persons not in the presence of an officer of the corporation?

Trial Examiner Erickson: Yes, throughout the entire hearing.

Mr. Shapiro: For the entire hearing?

Trial Examiner Erickson: Yes.

Mr. Shapiro: Thank you, your Honor.

Q. (By Mr. Nicoson) Have you since July 24th been offered reinstatement at Lettie Lee by anyone? A. No, sir.

Q. Has Mr. Bothman discussed with you the question of reinstatement? [260]

A. No, sir.

Q. Has he offered to reinstate you?

A. He never did.

Q. Has Mr. Swartz offered to reinstate you at any time since July 24th?

A. He never did.

(Testimony of Louis Baliber.)

Q. Have you had any discussion with any officer of the company concerning your reinstatement?

A. I did not.

Mr. Nicoson: That is all. You may cross examine.

Cross Examination

By Mr. Shapiro:

Q. You didn't tell Mr. Swartz, when you went to work in November of 1939, that you belonged to the union, did you? A. I did not.

Q. He didn't ask you, did he?

A. He did not.

Q. Mr. Bothman didn't ask you, did he?

A. Nobody did.

Q. It wasn't discussed at all, was it?

A. No.

Q. No one told you if you belonged to the union, you would not be hired? A. Well, I knew——

Q. Just answer that "yes" or "no." Did anyone tell you [261] that or not?

A. Some outsiders did.

Q. All right. But did anyone connected with Lettie Lee tell you that? A. No.

Q. Have you worked since you went out on strike on July 24th? A. No.

Q. Have you done any work of any kind?

A. No work whatsoever.

Q. Received any salary or compensation from any source?

A. No. I did get some money from the union, but not so long.

(Testimony of Louis Baliber.)

Q. Did you sign a note for it? A. Yes.

Mr. Nicoson: I object to that.

Trial Examiner Erickson: I will let the answer stand. He has answered.

Q. (By Mr. Shapiro) Is the answer "yes"?

A. Yes.

Mr. Shapiro: That is all.

### Redirect Examination

By Mr. Nicoson:

Q. When you went to work for Lettie Lee, did you prior to that time talk to Mr. Bothman about going to work? [262]

A. When I received the postal?

Mr. Shapiro: Pardon me. I missed that question. Will you read it please?

(The question and answer were read.)

Mr. Shapiro: Thank you.

The Witness: At the time I received a postal, it was sometimes in July of 1939. When I went into the office, I asked for the job, and the job was taken. And it stated on the postal card to ask for Mr. Bothman, and the girl told me the job was taken. Then Mr. Bothman happened to come into the office and I spoke to him a few words, and he told me he would keep me in mind.

Q. (By Mr. Nicoson) At the time you went to work there, actually went to work, did you have a conversation with Mr. Bothman? A. No, sir.

Q. Only with Mr. Swartz?

A. Mr. Swartz is the one that hired me.

(Testimony of Louis Baliber.)

Mr. Nicoson: That is all. Thank you.

Mr. Shapiro: Nothing further.

Trial Examiner Erickson: Step down.

(Witness excused.)

Mr. Nicoson: Angelo Castella.

---

ANGELO CASTELLA,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

The Witness: My name is Angelo Castella, A-n-g-e-l-o C-a-s-t-e-l-l-a, 11602 Otsego Street, North Hollywood, California.

Mr. Nicoson: Mark that, please.

(Thereupon the document referred to was marked as Board's Exhibit 13, for identification.)

Q. (By Mr. Nicoson) I hand you a card which, for the purpose of identification, has been marked Board's Exhibit 13, and ask you to examine it and state if you know what it is.

(Handing document to witness.)

A. This is a card that I signed up in the union.

Trial Examiner Erickson: Speak up, please.

The Witness: This is a card that I signed up in the union hall with the rest of the cutters, Vito



(Testimony of Angelo Castella.)

Cimarusti, Lou Baliber, Don Quinn, Nolan Ber-teaux, and there was Harry Scott there, and I.

Q. (By Mr. Nicoson) Is that your signature there?

A. Well, my name is Angelo P. Castella.

Q. Well, is that your signature?

A. Yes.

Q. You wrote that? [264] A. Yes, sir.

Q. And that is the date you wrote that, 7-21-41; is that right? A. Yes.

Mr. Nicoson: I offer this in evidence.

Mr. Shapiro: No objection.

Trial Examiner Erickson: It will be received.

(Thereupon the document heretofore marked as Board's Exhibit 13, for identification, was received in evidence.)

### BOARD'S EXHIBIT No. 13

I, the undersigned voluntarily designate the International Ladies' Garment Workers' Union as my sole representative in collective bargaining with my employer.

Date: 7/21/41

Name: Angelo P. Castella.

Address: 11602 Otsego St., No. Holly.

S. S. No. 561-14-2782.

Craft: Cutter.

Firm: Lettie Lee.

Union Label 111.

(Vuelta)

(Testimony of Angelo Castella.)

Q. (By Mr. Nicoson) On June 11, 1941 were you an employee of Lettie Lee? A. Yes, sir.

Q. What were you employed as?

A. Cutter, sir.

Q. Were you an employee of Lettie Lee on July 24th? A. Yes, sir.

Q. Did you on that date join in the strike?

A. Yes, sir.

Q. Since July 24, 1941, have you been offered reinstatement to your former position by Mr. Bothman? A. Not that I know of, sir.

Q. Or by Mr. Swartz?

A. Not that I know of.

Q. What do you mean, "not that you know of"?

A. I haven't. [265]

Q. Have you talked to Mr. Bothman about reinstatement,—you, personally? A. No, sir.

Q. Have you talked to Mr. Swartz about reinstatement? A. No, sir.

Q. Have they talked to you about reinstatement? A. No, sir.

Q. Has any officer of the Lettie Lee Company talked to you concerning reinstatement since July 24, 1941? A. No one, sir.

Mr. Nicoson: That is all. You may cross examine.

Cross Examination

By Mr. Shapiro:

Q. When did you go to work for Lettie Lee?

A. I went to work for Lettie Lee in January, 1940.

(Testimony of Angelo Castella.)

Q. Who hired you?

A. Well, it was—I happened to go upstairs and I was talking to Lou a few weeks before—you see, I was out of work—to Mr. Lou Swartz, and he says, “Well, come around back right after the New Year, maybe. We will talk it over.”

So I was up in the hallway, and I rang the bell, and while I was waiting for Lou Swartz to come out, Mr. Bothman approached, and then he asked me, “What do you want?”

I says, “I am applying for a job as a cutter.”

And he says, “Are you a union man?”

And I says, “No. I worked for Mr. Markowitz next door.” [266]

Then Mr. Swartz, Lou Swartz, come in.

He says, “That’s all right.” Mr. Bothman says, “That’s all O. K. You can go to work,” because I had spoken to him before, and he put me to work right away.

Q. Did you have any other conversation with Mr. Bothman?      A. No.

Q. Did Mr. Bothman tell you if you were a union man that he wouldn’t hire you?

A. No. The conversation was stopped right there, because Mr. Swartz come in, and I never spoke to him before.

Q. Did Mr. Bothman tell you if you did belong to the union he wouldn’t hire you?

A. No, he didn’t.

Q. Were you told by Mr. Bothman or anyone

(Testimony of Angelo Castella.)

else that if you joined the union you would be fired?

A. No, he did not.

Q. Are you working now? A. No, sir.

Q. Have you worked at all since you went out on strike on July 24, 1941? A. No, sir.

Q. Have you received any salary or compensation from any source?

A. I received a loan, sir.

Q. From whom? [267]

A. From the union.

Q. Did you sign a note for it?

A. Yes, sir.

Q. How much of a loan did you receive?

Mr. Nicoson: I object.

Trial Examiner Erickson: Sustained.

Mr. Shapiro: Nothing further.

Mr. Nicoson: That is all.

Trial Examiner Erickson: Step down.

(Witness excused.)

Mr. Nicoson: Joe Sardo.

A Voice: Joe is not here yet.

Mr. Vito Cimarusti: Sardo is not here.

Mr. Nicoson: May I have a minute here?

Trial Examiner Erickson: Yes.

(A short interruption.)

Mr. Nicoson: I find it necessary, your Honor, to ask for a recess until I can get in touch with Mr. Sardo and see what time I can get him here. He was supposed to be here this morning. He called me and said that he probably would be a little late,

but he assured me that he would be here around 10:30.

Trial Examiner Erickson: We will recess then until a quarter to 11:00, and if you need more time, you can then ask me. [268]

Mr. Nicoson: At this time may I get an answer to the subpoena for the payrolls of the company, so that I might be examining them during this period?

(The document referred to was handed to counsel.)

Mr. Shapiro: May I be excused then until a quarter of 11:00? Then I can go down to the bankruptcy court and see about a matter down there.

Trial Examiner Erickson: Yes, you may.

Mr. Shapiro: Let the record show that we have handed to counsel, pursuant to the subpoena, the payroll records of Lettie Lee, Inc.

Trial Examiner Erickson: The record will so show. We are in recess until a quarter to 11:00.

(A recess was taken.)

Trial Examiner Erickson: The proceeding will come to order.

JOE SARDO,

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Nicoson:

Q. Will you state your name for the record?

A. Joe Sardo.

Q. Where do you live, Joe?

A. 2326 $\frac{1}{4}$  Carmone Avenue. [269]

Q. Have you ever been in the employ of the Lettie Lee Company?           A. I have.

Q. When did you first go to work for them?

A. October 19, 1939.

Q. Have you been continuously employed by them up to the present time?

A. Yes, I have.

Trial Examiner Erickson: What was that question and answer, please?

(The question and answer were read.)

Mr. Nicoson: Mark this, please.

(Thereupon the document referred to was marked as Board's Exhibit 14, for identification.)

Q. (By Mr. Nicoson): I hand you a card which, for the purpose of identification, has been marked Board's Exhibit 14, and ask you to examine it and state if you know what it is?

A. It is a card I signed up at the union.

Q. Is that your signature?           A. Yes.



(Testimony of Joe Sardo.)

Q. Is that the date on which you signed it, 7-21-41?      A. That's right.

Mr. Nicoson: I now offer this in evidence.

Mr. Shapiro: I will object to the offer on the ground [270] that the witness has testified he is now employed by Lettie Lee, unless counsel wants to clear it up.

Trial Examiner Erickson: He can still belong to the union, can't he?

Mr. Shapiro: I suppose so, your Honor.

Trial Examiner Erickson: The objection is overruled. It will be received.

(Thereupon the document heretofore marked as Board's Exhibit 14, for identification, was received in evidence.)

#### BOARD'S EXHIBIT No. 14

I, the undersigned voluntarily designate the International Ladies' Garment Workers' Union as my sole representative in collective bargaining with my employer.

Date 7/21/41.

Name, Joe Sardo.

Address, 2326 $\frac{1}{4}$  Carmona.

S. S. No. 555-18-9957. Craft, Cutter.

Firm, Lettie Lee.

(Vuelta)

Union Label 111.

---

Q. (By Mr. Nicoson): Have you been in actual employment since July 24, 1941?

(Testimony of Joe Sardo.)

A. Have I what ?

Q. Have you been in actual employment?

A. No, I haven't.

Q. What happened on July 24th?

A. The strike was called by the union, and we didn't go back to work.

Q. You are still on strike?

A. That's right.

Mr. Nicoson: That is all. You may cross examine.

Cross Examination

By Mr. Shapiro:

Q. Are you working now?

A. No, I am not.

Q. Pardon me? A. Not active work. [271]

Q. What kind of work are you doing?

A. Waiting for the strike to be settled.

Q. Are you receiving any compensation or money from any source? A. Yes, sir.

Q. From what source?

A. From the union.

Q. Do you work for the union?

A. No. It is a loan.

Q. You signed a note for it?

A. No. They have taken our word that we will pay it back when we have it, I guess.

Q. You never signed any note for any money that they have given you?

A. Yes, we have signed for the loan, as we get it, how much we take.

(Testimony of Joe Sardo.)

Q. Have you received any remuneration or compensation from any source since you went out on strike, since July 24, 1941?

A. No, I haven't.

Q. What did you mean when you said that you are still employed by Lettie Lee?

A. Well, I haven't been fired. Nobody told me I am fired.

Q. But you went out on strike on July 24th?

A. That's right.

Q. And you haven't come back? Is that right?

[272]

A. That's right.

Q. Have you been convicted of a felony, Mr. Sardo?

A. Yes, I have.

Q. Where?

A. Does it make any difference?

Q. I think it does.

A. In Wisconsin.

Q. For what were you convicted?

The Witness: Do I have to answer that?

Trial Examiner Erickson: Yes.

The Witness: Grand larceny.

Q. (By Mr. Shapiro): Were you sentenced to serve time?

A. Yes, I was.

Q. What sentence did you receive?

A. 15 months.

Mr. Nicoson: 15 months?

The Witness: That's right.

Q. (By Mr. Shapiro): Did you serve the 15 months?

A. Yes, I did.

(Testimony of Joe Sardo.)

Q. Are you on parole now?

A. No, I am not.

Q. In what court were you convicted?

Mr. Nicoson: I think I will object to that. I don't see the materiality of that.

Trial Examiner Erickson: Objection sustained.

[273]

The Witness: Oh——

Mr. Nicoson: Never mind. You don't have to answer.

Q. (By Mr. Shapiro): While you were working for Lettie Lee, were you at the same time working any place else?      A. No, I wasn't.

Q. Did you work nights any place else, other than at Lettie Lee?      A. No.

Q. Who hired you, Mr. Sardo?

A. Mr. Lou Swartz.

Q. Did you ever talk to Mr. Bothman about your hiring——      A. No.

Q. ——or your employment?      A. No.

Mr. Shapiro: That is all.

#### Redirect Examination

Q. (By Mr. Nicoson): Since July 24, 1941, has anyone offered to reinstate you at Lettie Lee?

A. No.

Q. Mr. Bothman or Mr. Swartz have not offered you reinstatement?      A. No.

Mr. Nicoson: That is all. Step down.

Trial Examiner Erickson: Step down.

(Witness excused.) [274]

Mr. Nicoson: I call as an adverse witness, Mr. Sam Bothman.

Mr. Shapiro: Take the stand, Mr. Bothman.

---

SAM BOTHMAN,

called as an adverse witness by the National Labor Relations Board, having been previously duly sworn, was examined and testified further as follows:

Cross Examination

Trial Examiner Erickson: You were sworn?

The Witness: Yes.

Q. (By Mr. Nicoson): You are the same Mr. Bothman who has previously testified and has been previously sworn in this proceeding?

A. Yes, sir.

Q. I hand you a book, Mr. Bothman, and ask you to state, if you know, what it is?

A. A payroll book.

Trial Examiner Erickson: A payroll of what?

The Witness: Of Lettie Lee, Inc.

Trial Examiner Erickson: All right.

Q. (By Mr. Nicoson): I direct your attention to a page, at the top of which appears stamped on it by one of these rubber stamps the dates of July 4, 1941, July 11, 1941 and July 18, 1941, and on which appears in red pencil the word "Assorters" over a group of names, the word "Cutters" [275] over a group of names, and the word "Drapers" over a group of names, and ask you to state if you know what that is?

(Testimony of Sam Bothman.)

A. This is the names of the employees of Lettie Lee at that particular time.

Q. At that particular time. Is this not the payroll of those particular employees for that particular period?

A. It is, to the best of my knowledge.

Q. Directing your attention to the succeeding period, on which is stamped the dates of July 25, 1941, August 1, 1941, August 8, 1941, August 15, 1941, I will ask you whether or not that is the payroll for the same group of employees on those dates?

A. It is.

Q. Now, if you will please turn over that last page I have just mentioned, on the back of that page you will find, also stamped at the top of the page, the dates August 22, 1941, August 29, 1941, September 5, 1941, September 12, 1941 but upon this page there appear no names. Can you tell me what that is, and how it could be explained?

A. If you will notice that this payroll is made so that they don't have to copy the names over here (indicating) so if you will fold it over like that (indicating), you will have your names running along in coherence with the names on the previous page.

Q. Then, as I understand it, for example, taking the name [276] of E. Begley, the first name which appears upon the first sheet which I have questioned you about, that name runs completely across that page and is continued on this last page



(Testimony of Sam Bothman.)

about which I am now talking to you, also on the first line?       A. Just a moment.

Q. Would that be correct?

A. You said "Begley"?

Q. Begley.

A. Let's start on this line. Begley,—that is the first line, is it not?

Q. That is the first line.

A. That first line is completely blank, is it not?

Q. That is correct.

A. Then it remains blank all the way through, which means evidently she was not employed in that particular period.

Q. But if she had been employed in that particular period, the entries would have been made in the blank spaces in the blank line?

A. She would have had a pay period.

Q. And the entries would have been placed——

A. In that category, yes.

Q. ——in the top line here, which now appears to be blank; is that right?

A. That's right. [277]

Q. So for the sake of office convenience, this last page about which I am now questioning you, by turning it completely over and comparing it with the names on the first page which I questioned you about, you will find there then the names corresponding to the entries on this third page? Am I correct about that?

A. Yes. As you are holding the page, you see, if you look at it from this angle, you have the names

(Testimony of Sam Bothman.)

completely across. Now, in order to make it very handy, this week is also included, you understand, and I mean if you hold it like this (indicating), you have the first week——

Q. That is right.

A. ——and then if you hold it like this (indicating), you have the complete roll. It is for the convenience of the office, not to have to copy the names over, is the only reason it is placed up there that way.

Q. And each line of the third page, or, rather, the back of page 2 is followed through from the names appearing upon the first page which I questioned you about? That is right, isn't it?

A. That's right.

Q. Now, I direct your attention also to the succeeding page, on which is stamped September 19, 1940.

A. 1941.

Q. 1941. I am sorry. And September 26th—is it 26th? [278]

A. I think it is 26. It looks like it. It is very dull. It is either 25 or 26.

Q. 1941. That would be for the succeeding week after September 19th?

A. That's right.

Q. Is that also a payroll?

A. That's right.

Q. And that is constructed in the same manner as page 3?

A. Correct.

Mr. Nicoson: Now, I offer these pages in evidence and ask permission to have them photostated and to return the originals to the company.

Mr. Shapiro: That is satisfactory, your Honor.

(Testimony of Sam Bothman.)

Trial Examiner Erickson: That leave is granted. The exhibit will be received.

(Thereupon the documents referred to were marked as Board's Exhibits 15-A, B, C and D, and were received in evidence.)

Trial Examiner Erickson: When you have them photostated, be sure to make duplicates.

Mr. Nicoson: Duplicates?

Trial Examiner Erickson: Yes.

Mr. Nicoson: Thank you, your Honor.

Q. (By Mr. Nicoson): Now, referring to Board's Exhibit 15-A, which designates the first sheet which I questioned you about; 15-B, which is the second sheet which I questioned [279] you about; 15-C, which is the third sheet I questioned you about, and 15-D, which is the fourth sheet which I questioned you about; and directing your attention to 15-A and to the name appearing there of Kathryn Lembke, I will ask you to examine that and state whether or not that page indicates that Kathryn Lembke earned any pay during those three pay periods shown on that sheet?

A. No. That was a period evidently when she was on her leave of absence, which she takes every year.

Q. You would say then from July 4th up to and including the pay period including July 25th or 26th——

Trial Examiner Erickson: Isn't that September?

Q. (By Mr. Erickson): ——I mean Septem-

(Testimony of Sam Bothman.)

ber 25 or 26, 1941, she earned no money; is that correct?      A. That's correct.

Mr. Shapiro: What was that date in September?

Mr. Nicoson: From July 4, 1941 to September 25 or 26, 1941, whichever that figure is.

Q. (By Mr. Nicoson): Now, directing your attention to the name of Eda Goodal, I ask you to examine all four of those sheets and state whether or not she earned any money during that period or those periods?      A. Eda Goodal?

Q. Yes.

Mr. Shapiro: Will you tell me, Mr. Nicoson, in what [280] capacity she is employed?

Mr. Nicoson: She was under the category of "cutters."

The Witness: None whatever.

Q. (By Mr. Nicoson): I will direct your attention to the name of Betty Latham, and ask you when that indicates that she received any pay, and for what periods?      A. Where is that name?

Q. Here (indicating).

A. Betty Latham. Is this on this line (indicating)? This follows here?

Q. Yes.

A. The red line. It is the week of August the 1st, it started.

Q. Now, is that a pay period ending August 1st? Would that be right?

A. A pay period ending August the 1st, yes.

Q. But there is no entry for her on the pay period ending July 25th; is that right?

(Testimony of Sam Bothman.)

A. That's correct.

Q. According to these exhibits here, she then continued up to and ending on September 5, 1941? Would that be correct?

A. Have you got it on the third line?

Q. Yes.

A. Up until September 5, 1941.

Q. Thereafter, there is no showing that she earned any [281] money? A. That's right.

Q. Do you know whether or not she left the employ of your company at that time?

A. She did. Went back to school.

Q. Now, directing your attention to the next name underneath Betty Latham, on the fourth line of that section, there appears to be an Amillo Gates.

A. That's right.

Q. I will ask you to examine and state when he first began to draw a salary?

A. He is not on this one at all.

Q. How?

A. No, here is your date right here (indicating).

Q. That doesn't come out right, does it?

A. He is in the last line, Amillo Gates.

Q. It is the fourth line?

A. Yes, line No. 4, right there (indicating).

Mr. Nicoson: Did we speak of the fourth line?

The Reporter: Yes.

Q. (By Mr. Nicoson): Will you examine that and tell me when it was indicated that Mr. Gates went on the payroll?

(Testimony of Sam Bothman.)

A. The week of August the 15th.

Q. Do you know whether or not that was his first week of employment? [282]

A. That evidently was, because the payroll would indicate that.

Q. According to this payroll, he continues in service up to the present time; is that correct?

A. What date is this?

Q. Well——

A. No, it isn't up to this.

Q. I am sorry. Up to and including September 25 or 26, 1941? That is what this exhibit shows. Am I correct in that?

A. That's correct, up to that period only.

Q. Now, I next direct your attention to the next name, which appears to be David Arzolo. Is that the correct name?

A. Yes, sir.

Q. I ask you to examine these four exhibits, and tell me when David Arzolo first began to draw pay with your company?

A. The week of August the 29th.

Q. 1941? A. 1941.

Q. The next name is D. Scherezzer. I will ask you to examine these exhibits and state when he first began drawing pay from your concern?

A. The week of September the 19th.

Q. Now, what was Mr. Scherezzer doing, do you know, when he was employed?

A. The capacity of his work? [283]

Q. Yes. A. He was doing cutting.



(Testimony of Sam Bothman.)

Q. He was doing cutting? A. Yes.

Q. And Arzolo, what did he do?

A. Cutting.

Q. And Gates?

A. Cutting. They are all under that heading of "cutters."

Q. Yes, I understand.

A. This entire group is cutters.

Q. When you say the entire group is cutters, you mean by that they are shown on this payroll?

A. No, they have all been that way.

Q. Well, we have a little dispute about that, as to whether or not they are cutters.

A. Not in my mind.

Mr. Nicoson: I know not in your mind, but in my mind there is, so we will watch the use of our terms, if you don't mind.

Mr. Shapiro: Well, whom do you object to on that list as not being cutters, Mr. Nicoson?

Mr. Nicoson: Well, I object to Kathryn Lembke, Eunice Usher, Eda Goodal, Dorothy Richard and Betty Latham under the category of cutters, and I object to all of the assorters. [284]

That is all.

#### Redirect Examination

Q. (By Mr. Shapiro) Will you look at this record, Mr. Bothman, and tell me what that record shows as to the number of cutters in your employ for the week commencing July 4, 1941?

Mr. Nicoson: I object to that. It calls for a

(Testimony of Sam Bothman.)

conclusion and is an ultimate factor to be found by the Board.

Trial Examiner Erickson: Read the question again, please.

(The question was read.)

Trial Examiner Erickson: You mean designated as cutters on the payroll?

Mr. Shapiro: Yes.

Trial Examiner Erickson: He may answer the question.

Mr. Nicoson: With that explanation, I will withdraw the objection.

Mr. Shapiro: That was the import of the question.

Mr. Nicoson: I didn't know that. I am not always sure of the import of your questions, so I have to have them clarified sometimes.

The Witness: Do you want me to count the names?

Q. (By Mr. Shapiro) Give us the number, and then read off the names.

A. There are 16 names listed under "cutters." However, [285] there are some of these names where the people did not work the entire period of time.

Q. Now, which of those——

Mr. Nicoson: Wait a minute. I move to strike the answer because the answer is not responsive. He asked him under a particular period how many were shown on that payroll, and while I think the

(Testimony of Sam Bothman.)

payroll is the best evidence, his answer is not responsive to the question.

Trial Examiner Erickson: All right. He asked you as of July 4th.

The Witness: As of July 4th?

Trial Examiner Erickson: Yes.

The Witness: Ten.

Q. (By Mr. Shapiro) All right. Did those ten work that entire period as cutters; that is, for the week commencing July 4th?

Trial Examiner Erickson: This is the week ending?

Mr. Shapiro: No. I thought it was—pardon me—the week ending July 4th.

Mr. Nicoson: I think I object to the use of the word “cutters” there.

Mr. Shapiro: Well, it is understood.

Trial Examiner Erickson: It is understood, yes.

Mr. Shapiro: You mean one thing, and I mean another.

Mr. Nicoson: All right. I just want the record to [286] show that I don’t “give” on this question.

The Witness: Well, according to the records, we find for the 40 hour week, with the exception of Nolan Berteaux, who worked 38½ hours that week, the balance of them worked the full week.

Q. (By Mr. Shapiro) Now, who are the ten cutters that worked for your company for the week ending July 4th?

A. Louis Swartz, Vito Cimarusti, Mort, Eunice, Joe Sardo, Louis—

(Testimony of Sam Bothman.)

Q. Better read their last names too, Mr. Bothman.      A. I can't pronounce them.

Q. Baliber.

A. —Baliber, Don Quinn, and Nolan Ber-teaux, and Dorothy Richard.

Q. All right. Now, will you explain how it happens that you have six additional names under the designation "cutters" for that same work period, who apparently were not working at that time? Will you explain that to the Court?

A. Well, let's see. We will start with the first, Kathryn Lembke, who was on a leave of absence at that particular time.

Q. All right. Now, taking Kathryn Lembke first, when did she leave on her leave of absence?

A. I will have to refer back to the payroll to find out exactly what date that is. [287]

Q. All right. Will you do that?

A. The last pay was on May 30, 1941.

Q. When did she return to her employment?

A. The week of October the 17th.

Q. Is she now in your employ?      A. She is.

Q. In what capacity?      A. As a cutter.

Mr. Nicoson: You understand I object to all of this characterizing?

Trial Examiner Erickson: Overruled.

Mr. Nicoson: May I have a continuing objection, please?

Trial Examiner Erickson: You may.

Q. (By Mr. Shapiro) Was she discharged or

(Testimony of Sam Bothman.)

was her employment terminated when she left in the latter part of May?

A. No, she took a leave of absence. Every summer she goes away for two or three months. She did it the previous summer. Because that is our dull season, as a general rule, and then she comes back and goes to work.

Q. When she left in the latter part of May, was it the understanding that she would be returned to her former employment as soon as her leave was concluded?

A. It certainly was, as in previous years.

Q. Now, with reference to the other persons listed as cutters, who did not work for that period, will you explain [288] where they were or what they were doing?

A. I don't quite understand the question.

Q. You have, for instance, Betty Latham, who appears here as a cutter, and it does not appear that she worked for the week ending July 4th. Is that correct?

A. Evidently, she wasn't working at that time.

Q. And has she worked since?

A. Let's see. Yes, she started to work on August 1, 1941.

Q. And is she still in your employ?

A. No.

Q. When did she leave your employ?

A. Let me see. I will have to check that date. The week of September the 5th, 1941.

(Testimony of Sam Bothman.)

Q. Now, what I want to find out, Mr. Bothman, is this: If these people weren't working during that work period, how does it happen that their names all appear here?

A. Because that is our steady employment list.

Q. I see. And as your employment or as your work increases, you put on more people; is that right?

A. That's right.

Q. And you draw from that list of your employees?

A. That's right.

Q. Now, calling your attention to the following work period, which would be the week ending July 11th, will you tell me what your records show as to the number of cutters in your [289] employ at that time?

A. July 11th?

Q. Yes.

A. Ten, ten cutters.

Q. And was Miss Lembke still on leave of absence at that time?

A. She was.

Q. By the way, is there a David Thain, who was a cutter in your employ?

A. There is.

Q. Where was he during these same periods of time that I am now questioning you about?

A. He was on a leave of absence in Texas.

Q. Has he since returned to work?

A. He has.

Q. And is he working now?

A. He is.

Q. In what capacity?

A. As a cutter.

Q. When did he leave on his leave of absence?

A. He went to help his mother——

Mr. Nicoson: I object to that. Let's see if the payroll shows it.



(Testimony of Sam Bothman.)

The Witness: Well, I will bring up the payroll previously to show that. [290]

Mr. Nicoson: I am going to stand on that. The payroll is the best evidence.

Trial Examiner Erickson: Does the payroll refer to him?

The Witness: Yes.

Trial Examiner Erickson: Then refer to the payroll.

The Witness: This particular one here doesn't.

Trial Examiner Erickson: Then give us your best memory.

Mr. Nicoson: You overrule my objection?

Trial Examiner Erickson: Yes. I told him to give his best memory.

The Witness: I think probably a year and two or three months ago, Mr. Thain came to me and told me he was going down to help his mother fix up the farm, and wanted to know if I would give him back his job when he came back. And I said, "Certainly, I will give you back your job when you come back."

So he left our employment at that time, and when he returned from Texas, he came and asked would I give him back his position, which I did.

Q. (By Mr. Shapiro) When did he return from Texas? Rather, when did you put him back to work?

A. The week of October the 24th, 1941.

Mr. Nicoson: What was that, please?

The Witness: October 24, 1941.

(Testimony of Sam Bothman.)

Q. (By Mr. Shapiro) And is he still in your employ? [291] A. He is.

Q. In what capacity? A. As a cutter.

Q. All right. Now, will you turn to that portion of the records which show the persons in your employ as cutters for the week ending July 18, 1941?

A. July 18th?

Q. Yes. A. Yes. Ten.

Q. And was Mr. Thain still on the leave of absence? A. He was.

Q. And Miss Lembke? A. She was.

Q. All right. How about the next week, which would be the week ending the 25th?

A. The week ending the 25th. Ten.

Q. And were the same two people, that is, Miss Lembke and Mr. Thain still on leave of absence?

A. They were.

Mr. Ryan: Mr. Examiner, I want to object to the respondent's classifying Thain as being on leave of absence. It is already indicated that he quit his job and came back and asked for another job, so he was not on leave of absence.

Trial Examiner Erickson: However he described it in the record will show the fact. [292]

Mr. Ryan: The record does not show the fact if he was carried as an employee however.

Trial Examiner Erickson: Does he show on the payroll here?

The Witness: Not here.

Q. (By Mr. Shapiro) Why doesn't he show on the record? The reason is that——

(Testimony of Sam Bothman.)

Mr. Nicoson: Don't you testify.

Q. (By Mr. Shapiro) Tell us why this record you have here does not show Mr. Thain's previous period of employment.

A. Because this is only the records of 1941.

Q. And when did Mr. Thain leave on his leave of absence?      A. In 1940.

Q. Do your payroll records for 1940 show that?

A. That he is on that payroll?

Q. Yes.      A. Certainly.

Q. And you have those to refer to?

A. Certainly.

Q. And will you bring those here this afternoon?

A. Certainly.

Trial Examiner Erickson: What about your testimony that all of your employees that are listed as cutters are shown on that payroll, and you draw from them as you need them?

The Witness: Well, when she transferred 1941—from [293] 1940 to 1941, she knew that Mr. Thain was still in Texas at that time, so she did not enter him on the 1941 book.

Trial Examiner Erickson: How do you know that?

The Witness: Because the girl knew that Mr. Thain happens to be the brother of Lettie Lee, who is the president of Lettie Lee, Inc.

Trial Examiner Erickson: All right.

Q. (By Mr. Shapiro) All right. Now, for the week ending August 1st, what do your records show

(Testimony of Sam Bothman.)

as to the number of cutters in your employ at that time?      A. What date?

Q. August 1st.      A. August 1st, five.

Q. And who are those cutters?

A. Louis Swartz, Mort Litwin, Eunice Usher, Dorothy Richard and Betty Latham.

Q. Now, for the week ending Augsut 8th, what do your records show as to the number of cutters in your employ?      A. Five.

Q. Are they the same five?      A. They are.

Q. And for the week ending August 15th, what do your records show with respect to the number of cutters in your employ?      A. Six.

Q. Will you name those, please? [294]

A. Louis Swartz, Mort Litwin, Eunice Usher, Dorothy Richards, Betty Latham and Argola Gates.

Q. With respect to the week ending August 22nd, what do your records show as to the number of cutters in your employ for that period?

A. August 22nd?

Q. Just a moment. Is that Amillo Gates that you referred to?      A. No, Argola.

Mr. Nicoson: I think we said a while ago that that was Amillo, A-m-i-l-l-o. That is what it looked like to me. It is the same one?

The Witness: It is the same one. On August 22nd?

Q. (By Mr. Shapiro) Yes.      A. Six.

Q. Are they the same six that you named to us previously?      A. They are.

(Testimony of Sam Bothman.)

Q. With respect to the week ending August 29th, what do your records show?

A. August 29th. Seven.

Q. Who are those seven? Will you read them off?

A. Louis Swartz, Mort Litwin, Eunice Usher, Betty Latham, Amilla Gates, David Arzolo.

Mr. Nicoson: That is only six. You left out Richard, didn't you?

The Witness: Sir? [295]

Mr. Nicoson: You left out Richard?

The Witness: Dorothy Richard, yes.

Q. (By Mr. Shapiro) All right. For the week ending September 5th, what do your records show?

A. Seven.

Q. Are they the same seven that you have just enumerated? A. They were.

Q. And for the week ending September 12th, what do your records show? A. Six.

Q. And who are they?

A. The same, with the exception of Betty Latham.

Q. And for the week ending September 19th?

A. September 19th. Seven.

Q. Are they the same seven as you previously named? A. No.

Q. All right. Will you name them then?

A. Louis Swartz, Mort Litwin, Eunice Usher, Dorothy Richard, Amillo Gates——

Mr. Shapiro: Pardon me. Did you address some remark to me? You (indicating)?

(Testimony of Sam Bothman.)

Mr. Angelo Castella: No, sir.

Mr. Shapiro: I thought you said something under your breath.

Mr. Castella: I was talking to him (indicating).  
[296]

Mr. Shapiro: You weren't looking at him. You were looking at me.

The Witness (Continuing): —David Arzolo, and D. Scherezzer.

Q. (By Mr. Shapiro) All right. What do your records show with respect to the week ending September 26th?

A. Seven cutters. The same cutters that worked the previous week.

Q. That takes us through the month of September, I believe. A. That's right.

Q. All right. Now, six men went out on July 24th. Will you state to the Court whether or not you replaced those six men, either entirely or in part? A. In part.

Q. To what extent were they replaced?

A. To the extent that the payroll shows.

Q. That is one man. Then you show there that you had seven employees for most of this period?

A. Two of those are men.

Q. Yes. A. And the balance are women.

Q. What I want to know, Mr. Bothman, is when these six men went out on July 24th, how many persons did you employ or take on that were not working for your on July 24th?

A. You mean in the cutting department? [297]



(Testimony of Sam Bothman.)

Q. Yes, in the cutting department.

A. Well, you have Betty Latham, Miss Gates, David Arzolo, and this Scherezzer, who worked part time. They didn't work the entire period, but they worked certain weeks in that particular period that you mention.

Q. You never had as many cutters in your cutting department after July 24th as you had previous to that time; is that correct?

A. Correct.

Q. And why is that?

A. The business didn't warrant it.

Q. How many cutters do you have in your employ at the present time?

A. I will have to refer back to——

Q. All right.

Mr. Ryan: We object, of course, to the term "cutters" being applied to some of these individuals here whom we have already shown, I believe, are not cutters.

Trial Examiner Erickson: You have a running objection.

The Witness: As of the week of December 26th, that is the last record I have here at the present time, seven.

Q. (By Mr. Shapiro) Seven cutters?

A. That's right.

Q. And who are they?

A. Louis Swartz, Dorothy Richard, A. Gates, Kathryn Lembke, [298] Mort Litwin, Eunice Usher, David—no, strike that out, because they haven't

(Testimony of Sam Bothman.)

been working those two weeks, see. David Scher-ezer and David Arzolo have not been working for a few weeks. And David Thain.

Q. Now, so the record is straight, who were the seven working in the week ending December 26th?

A. David Thain, Eunice Usher, Mr. Litwin, Kathryn Lembke, A. Gates, Dorothy Richard and Louis Swartz.

Mr. Shapiro: Now, as you called Mr. Bothman as an adverse witness, I don't want to go into our case in chief. I don't think I want to question him any further at this time, reserving, however, the right to go into our defense.

Trial Examiner Erickson: Yes, you may do that.

#### Recross Examination

Q. (By Mr. Nicoson) Now, isn't it a fact, Mr. Bothman, that Miss Lembke works for somebody else during the summer?

A. She goes on a vacation up in—I don't really know exactly the spot, but she takes a leave of absence every summer and goes up to some resort.

Q. Goes up to Lake Tahoe, doesn't she?

A. I don't know the exact spot she goes, but last year it seems to me like she said she went to Catalina.

Q. Now, again showing you Board's Exhibit 15, with its subdivisions, and directing your attention to Betty Latham, what did Betty do when she was in there? Do you know? [299]

A. Betty Latham?

(Testimony of Sam Bothman.)

Q. That's right, if you know.

A. Yes, she was a cutter.

Q. What did she do as a cutter?

A. She cut dresses.

Q. Did she do all the operations that the men do?

A. Practically the same operations that the men do in our particular factory, yes.

Q. Will you explain to us then why Betty Latham was only receiving \$17.93, when the general salary for the men cutters appears to be \$45.08? Will you explain that?

Mr. Shapiro: Just a minute. That is objected to as incompetent, irrelevant and immaterial. The record will show that the women received less than the men.

Trial Examiner Erickson: That is overruled.

Q. (By Mr. Nicoson) I want to know why? That is what I am asking.

A. I will answer that. Because it is generally the practice of the entire market that the men cutters receive more salary than the lady cutters.

Q. Why is it the practice of the entire market for the men to receive twice as much as the ladies?

A. Your answer will be as good as mine.

Q. Well, do you know? A. I don't. [300]

Q. You don't. Will you also look at this exhibit and tell me whether or not Latham and Richard are on the same price level?

A. Latham and Richard?

Q. That is right. A. They are.

(Testimony of Sam Bothman.)

Q. They both normally draw \$17.93 for a full week; is that correct? A. Correct.

Q. Now? A. That's correct.

Q. And that same thing applies to Eda Goodal; is that true? A. Eda Goodal?

Q. Yes. A. Where is Eda Goodal?

Mr. Nicoson: She did not get on until October, I guess. Wait a minute.

I withdraw that question. That is all.

#### Redirect Examination

Q. (By Mr. Shapiro) How much does Eunice Usher receive? A. Eunice Usher?

Q. Yes. A. \$24.00 per week.

Q. How much does Kathryn Lembke receive? [301]

A. Sixty cents per hour. That is \$24.00 per week.

Q. Do Kathryn Lembke and Eunice Usher perform the same services that the males set out in your records as cutters do? In other words, do the women, those two women particularly, do they perform the same services as the men?

A. Practically the same thing.

Q. Well, in what respect is there any difference?

A. Well, in our factory we work on 1941 method of manufacturing. All our markers are made by one person.

Q. And who is that?

A. Well, I will retract. I will say one or two persons. The greatest percentage of our markers, I will put it that way because there are isolated

(Testimony of Sam Bothman.)

cases where someone else might make one or two markers. By markers, I mean we make carbon copies of the complete pattern. Now, these markers are made by either Mort Litwin or Lou Swartz. That is what we call our master markers. So it really only takes choppers in our factory. The general term, the cutting term "chopper" is to do the kind of work that these men that went out on strike were doing in our factory.

Q. Now, will you tell us what you mean by the term "chopper?"

A. The term "chopper" in the cutting industry is usually applied to a person that cuts out the material after a marker has been made.

Q. All right. Now, you were going to tell us in what [302] respect, if any, the work performed by Eunice Usher and Kathryn Lembke differs from the work performed by, let us say, the six men that went out on strike.

A. Well, naturally, they give the girls the smallest amount of actual labor to do, because carrying around heavy bolts of material is easier for a man than it is for a woman. The girls cut the trimmings from a marker, as a general rule. Sometimes it was necessary that they make their own markers for the trims, and sometimes these particular girls referred to cut full dresses, just the same as the boys did, and they cut samples, just the same as the boys did. Both are capable of making markers. One of them has ten years experience at cutting.

(Testimony of Sam Bothman.)

Q. Which one is that?

A. Eunice Usher. One of them probably has three to four years. I don't know exactly how long.

Q. Are their services interchangeable? I mean by that, have there ever been occasions when the girls took the place of the men and did their work, or the men took the place of the women and did their work?

A. They all do practically the same thing. There have been times when the girls cut out the full dress, but, generally speaking, they cut most of the trimmings. But there were plenty of times when there was no particular trimmings to cut, and, therefore, they cut a full dress, or [303] whatever the manager of the particular department had them to do. They were capable of cutting dresses. They were capable of making markers. They were capable of sloping, and they were capable of doing bundling, which in our particular factory is very essential, and it takes the knowledge of being a cutter to be a bundler.

Q. Will you explain why that is, Mr. Bothman?

Mr. Nicoson: I object to that.

Trial Examiner Erickson: He may answer.

The Witness: For the simple reason the bundler in our factory has to refer back to the pattern to mark where the operator sews. In fact, it is just as important that the dress be marked right, as it is that the dress be cut right, and marking up the dress is the duty of the bundler. She has to go to the pattern, take it down, and chalk mark and check



(Testimony of Sam Bothman.)

notches, and must have a knowledge of a dress before she can hold the job as a bundler.

Mr. Shapiro: I think if I continued along this line, we would naturally be getting into matters of defense, and I don't want to do that, as long as you haven't rested your case.

I don't think there is anything further now, Mr. Bothman.

Mr. Nicoson: I just want to ask you one further question. [304]

#### Recross Examination

Q. (By Mr. Nicoson) As I understand your testimony just now, you said from July on up until around the end of the year is a slack period. Isn't that what you said? A. What is that?

Mr. Nicoson: Read the question, please.

(The question was read.)

The Witness: No.

Q. Was it a good period?

A. It all depends on the line that you have. It all depends on the amount of business that you do.

Q. I am talking about the latter part of 1941 now. A. In the latter part of 1941?

Q. Yes.

A. It was considered only fair in our line, yes.

Q. I think you testified you only needed seven cutters. That is right? A. That's right.

Q. Now, I will show you Board's Exhibit 15, with its various subdivisions, and direct your attention to the name of Mort Litwin on 15-B. That first

(Testimony of Sam Bothman.)

figure for Mort Litwin for that week ending August 1st is 78. What does that represent?

A. Let me see what you are pointing out.

Q. 78. (Indicating). [305] A. 78 hours.

Q. Is that 78 hours during that week?

A. Yes.

Q. For which he received \$111.74?

A. Correct.

Q. So he worked a lot of overtime that week, didn't he? A. He did.

Q. Take the next week.

A. (Continuing) Because these other cutters were not working, they went on a strike, so we had to have somebody to cut the merchandise at that particular time.

Q. Thank you, sir. The same thing is true in the succeeding week, 74½ hours; isn't that correct?

A. Correct.

Q. For which he received \$105.68?

A. Correct.

Q. The same in the next week, 74 hours?

A. Correct.

Q. Drawing \$104.82,—correct?

A. Correct.

Q. And in the succeeding week he worked 69 hours, drawing \$94.25. Correct? A. Correct.

Q. The succeeding week he worked 71½ hours?

A. Correct. [306]

Q. Drawing \$100.49. That is right?

A. Yes.

Q. And in the following week, that would be

(Testimony of Sam Bothman.)

September 5th, he worked 66 $\frac{3}{4}$  hours and drew \$92.29?      A. That's right.

Q. Correct?      A. Yes.

Q. And in the week of September 12th he worked 69 hours and drew \$96.17. Correct?

A. Correct.

Q. And in the week of September 19th he worked 68 hours, drawing \$97.10. Correct?

A. Correct.

Q. And what was your normal work week?

A. 40 hours.

Mr. Nicoson: Thank you, sir. That is all.

Mr. Shapiro: Nothing further.

(Witness excused.)

Mr. Nicoson: Your Honor, I think I have finished.

Trial Examiner Erickson: You rest?

Mr. Nicoson: I wonder if you would mind taking noon recess at this time and let me make such last minute checks, as I would want to. I don't think I have anything further, but I would just like to check.

Trial Examiner Erickson: How much time do you think [307] you will take, Mr. Shapiro, for your defense?

Mr. Shapiro: Oh, I think the rest of the day and probably most of tomorrow.

Trial Examiner Erickson: All right. We will adjourn now then until 2:00 o'clock. We will be ready to go on at 2:00 o'clock.

Mr. Shapiro: And I assume that we had better be ready to go ahead with the defense at 2:00 o'clock?

Trial Examiner Erickson: Yes.

Mr. Shapiro: Counsel hasn't rested yet, as I understand it?

Mr. Nicoson: That is right.

Trial Examiner Erickson: That is right. We will adjourn until 2:00 o'clock.

(Whereupon, at 12:05 o'clock p.m., a recess was taken until 2:00 o'clock p.m.) [308]

After Recess

(Whereupon, at 2:00 o'clock p.m., the hearing resumed, pursuant to recess.)

Trial Examiner Erickson: The proceeding will come to order.

Mr. Nicoson: The Board rests.

Mr. Shapiro: At this time, if the Court please, I will move to strike from the record all of the testimony of all of the witness respecting any conversations between any persons and Mr. Swartz, not in the presence of or shown to have been made under the authority of any authorized representative, agent or officer of the respondent in this action, on the ground that all of such testimony is hearsay and not binding upon the respondent; on the further ground that there has been no foundation established for the admissibility of any of such evidence.

Trial Examiner Erickson: The motion is denied.

Mr. Shapiro: At this time, if the Court please, I will move the Court to dismiss the complaint in so far as it proceeds upon the theory that Local No. 84 is the representative of the cutters, for the reason that it affirmatively appears that the cutters are not a majority of the employees of Lettie Lee, that they are not a majority of the cutting unit, and for the further reason that it affirmatively appears that the cutters are not the appropriate [309] bargaining unit of Lettie Lee, Inc.

Trial Examiner Erickson: That motion is denied.

Mr. Sokol: I would like to call a witness before you call anyone, on behalf of the Union, if the Trial Examiner please.

Trial Examiner Erickson: You may, yes.

Mr. Sokol: Mr. Bothman.

SAM BOTHMAN,

a witness called by and on behalf of the International Ladies' Garment Workers' Union, Cutters Local No. 84 having been previously duly sworn, was examined and testified further as follows:

Direct Examination

Q. (By Mr. Sokol) Have you been sworn before? A. I have.

Q. Have you related what office you held with the company? A. No.

Q. What office? A. Secretary-treasurer.

Q. How long have you held that office?

A. Since the beginning of Lettie Lee, Inc.

(Testimony of Sam Bothman.)

Q. And when was that?

A. I will have to get the papers for the exact date. I don't know the exact date.

Q. Approximately? [310]

A. Approximately three years.

Q. Approximately three years ago?

A. Yes.

Q. In what month?

Mr. Shapiro: I submit, Mr. Examiner——

Mr. Sokol: I am testing his credibility. I want to show he is vague and indefinite with respect to his own business.

The Witness: Approximately, I think it was in the month of January, about three years ago.

Q. (By Mr. Sokol) Now, is that a California corporation? A. It is.

Q. Prior to that time you were in business, were you, in the same line?

A. No. Prior to that time I worked for Lettie Lee, not Lettie Lee, Inc.

Q. In what capacity?

A. As general manager.

Q. As general manager? A. Yes.

Q. When did you work as general manager for—well, now, before I into that: Was that a corporation?

A. It was a corporation when I first took the position, and later on it was changed to a private owner. Now, the exact dates I don't remember or recall. [311]



(Testimony of Sam Bothman.)

Q. Well, specifically, in the year 1936, were you employed by Lettie Lee?

A. In the year of 1936?

Q. Yes.           A. Yes.

Q. Were you employed in the year 1937?

A. Yes.

Q. And 1938?           A. Yes.

Q. All in the same capacity as manager?

A. There were about eight or nine months in that period where I was employed as a salesman only.

Q. Approximately when was that?

Mr. Shapiro: I submit, Your Honor, this is certainly not material to any issue in this case.

Trial Examiner Erickson: Let him proceed.

Q. (By Mr. Sokol) When was that eight or nine months when you were a salesman?

A. That was prior to the starting of the new Lettie Lee, Inc.

Q. Prior to January three years ago, you mean?

A. That's right.

Q. Well, when? When prior to it?

A. About eight or nine months prior to the—I mean, the eight or nine-months period prior to that. [312]

Q. I see. Now, you were general manager during 1936, 1937 and 1938?           A. That's right.

Q. As such, did you have charge of the labor relations of the concern?

Mr. Shapiro: That is objected to as being incompetent, immaterial and irrelevant.

(Testimony of Sam Bothman.)

Trial Examiner Erickson: Overruled.

Mr. Shapiro: He is asking him as to his relationship prior to the time of this incorporation.

Trial Examiner Erickson: He still may answer.

The Witness: Will you repeat the question, please?

(The question was read.)

The Witness: Not fully, no.

Q. (By Mr. Sokol) In what respect did you have any control?

A. Merely as a consultant, because I was not the owner, and I at that time was merely managing. Miss Lee was the owner.

Q. She was the sole owner at that time?

A. In order for me to answer that exactly correct, we would have to refer back to all the records, because when Lettie Lee, Inc. was first established the stockholders were other people other than myself and Miss Lee. There was other people involved. And then later on Miss Lee bought out the other stockholders. [313]

Q. Now, let me ask you——

A. (Continuing) So at that particular time you are asking me, I am not sure whether the corporation—whether it was still a corporation or whether it was individually owned by Lettie Lee. I don't recall exactly during that period.

Q. Did it go under the name of Lettie Lee when you were manager?

(Testimony of Sam Bothman.)

A. I think it went under the name of Lettie Lee, Inc. when I first took the position on.

Q. As manager? A. That's right.

Q. All right. Now, do you recall an organization known as the Merchants & Manufacturers Association of Los Angeles?

Mr. Shapiro: That is objected to as being irrelevant, incompetent and immaterial, and not in issue in this case.

Q. (By Mr. Sokol) (Continuing) ——with whom you did business in 1936,—you, personally?

Mr. Shapiro: The same objection, Your Honor.

Trial Examiner Erickson: Overruled.

The Witness: Repeat that question again.

(The question was read.)

The Witness: I do.

Q. (By Mr. Sokol) Now, the Merchants & Manufacturers Association of Los Angeles is an organization, is it not, formed of employers allegedly to protect employers; is that [314] correct?

A. I do not know.

Mr. Shapiro: I will object to that question on the ground it is incompetent, irrelevant and immaterial, and not in issue in this case.

Trial Examiner Erickson: It is overruled.

Mr. Shapiro: May I have a running objection to this entire line of examination, Your Honor?

Trial Examiner Erickson: You may. The objection is overruled.

The Witness: Repeat the question.

(The question and answer were read.)

(Testimony of Sam Bothman.)

Q. (By Mr. Sokol) You don't know that?

A. I do not know.

Q. Well now, to shorten this name, Merchants & Manufacturers Association, I will refer to it as M & M from now on. With whom at the M & M did you converse or do business in 1936?

Mr. Shapiro: I would like to add to the objection the further ground that it is remote in point of time. We are back six years ago, Your Honor. This is 1942, and I can't conceive that the Court is very much interested in what organization this man belonged to in 1936, six years ago.

Mr. Sokol: It was after the passage of the Act.

Trial Examiner Erickson: The objection is overruled.

The Witness: Repeat the question. [315]

(The question was read.)

The Witness: I don't recall.

Q. (By Mr. Sokol) Would the name, C. R. Leslie, refresh your memory?

A. Not necessarily.

Q. Did you converse with the attorney of the Merchants & Manufacturers Association?

A. I might have. I don't recall. It is rather vague, because it has been quite a while ago, and I don't recall all the transactions that happened at that particular time.

Q. Let me go up to the present time at this time. During this strike you hired guards, didn't you, from the Woltman Bureau of Identification; is that correct?

A. Correct.

(Testimony of Sam Bothman.)

Q. Do you know Mr. Woltman? A. I do.

Q. Do you know that he was formerly connected with the Bodel Detective Agency?

A. I do not.

Q. You don't know that? A. No, sir.

Q. How did you get the services of Mr. Woltman? A. They were solicited.

Q. By whom? A. By Mr. Woltman. [316]

Q. Do you know Mr. Onthank, Fred Onthank?

A. I don't know him by name, no one by that name, that I know of. I don't know.

Q. Well, the man that handled that matter for the M & M?

A. I can't say that I know him.

Q. Well, are you positive you don't know Fred Onthank?

A. I am fairly positive, because I don't recall the name, yes, sir.

Q. Did Woltman come up himself?

A. That's right.

Q. Personally? A. That's right.

Q. Now, you hired those guards several days before July 24, 1941, didn't you, the date of the strike? A. I did not.

Q. The guards were there, weren't they?

A. Not under my supervision.

Q. Wasn't there a group formed of manufacturers; yourself, that is, Lettie Lee, Inc., William J. Markowitz, and other firms for this particular strike? A. Not that I know of.

(Testimony of Sam Bothman.)

Q. Didn't you cooperate with William J. Markowitz in the strike?      A. About what?

Q. In the hiring of guards? [317]

A. I did not.

Q. Did you contribute—did you form any fund in this strike for guards or other services?

A. We did not contribute any money for guards in this strike at any time. We handled that individually. As far as I know, it was all handled individually.

Q. Then you didn't have a fund set up for that purpose?      A. No, sir.

Q. And your company paid out—or, was your company billed directly by the Woltman Agency?

A. It was.

Q. Now, is it or is it not true that before July 24, 1941, you made preparations for the strike?

A. What do you mean when you say "preparations"?

Q. I will leave that up to you. Just preparations.

Mr. Shapiro: Then I will object to the question upon the ground that it is so vague and indefinite that the witness cannot be expected to know what counsel means.

Trial Examiner Erickson: I will sustain the objection.

Q. (By Mr. Sokol) All right. Did you know that a strike was to occur prior to July 24, 1941?

A. Did I know positively that a strike was to occur?



(Testimony of Sam Bothman.)

Q. Not positively. Did you know?

A. Not positively, no.

Q. But you had heard it? [318]

A. It was rumored, yes.

Q. And who told you?

A. Generally, on the market. I don't recall exactly.

Q. Name one individual that told you a strike was going to occur.

A. I can't recall any individual that told me that. It was a general rumor. That's all I can remember about that.

Q. You have talked to your employees, haven't you, before July 24, 1941?

A. Certainly, I have talked to my employees. I talk to my employees every day.

Q. And you talked to them about the International Ladies' Garment Workers' Union, didn't you?

A. If they asked me about it, naturally, I talked to them.

Q. Who asked you about the International Ladies' Garment Workers' Union prior to July 24, 1941?

A. I don't recall exactly who asked me.

Q. Whom did you talk to about the International Ladies' Garment Workers' Union prior to that date?

A. I don't recall who I talked to in reference to that.

Q. Well, look at your employees. You have got

(Testimony of Sam Bothman.)

several employees here in the room. Maybe that will refresh your memory. They are sitting in the courtroom. Now, tell the Trial Examiner if you discussed with any of your employees the International Ladies' Garment Workers' Union or the [319] Cutters Local, particularly, prior to July 24, 1941.

A. Did I do what?

Q. The reporter will read the question.

(The question was read.)

A. I don't think I ever referred to the International Ladies' Garment Workers' Union in that sense of the word. I might have spoken to the Cutters and asked them if they belonged to the Union.

Q. Which Union did you have reference to?

A. The International Ladies' Garment Workers' Union, A. F. of L.

Q. And when did you talk to your employees concerning that matter?

A. Oh, it might have been two or three weeks before the strike. It might have been a month before the strike.

Q. Did you talk on a number of occasions?

A. Yes, on a number of occasions. I was sometimes asked, and we discussed it.

Q. And sometimes you asked, didn't you?

A. No. I never went around and made an issue of that particular thing.

Mr. Sokol: I move to strike that as not responsive.

Mr. Shapiro: I think it is responsive.

(Testimony of Sam Bothman.)

Trial Examiner Erickson: The motion is denied.

Q. (By Mr. Sokol) Now, can't you tell the Trial Examiner [320] the name of one of your employees that you discussed that matter with?

A. You mean before the strike or after the strike?

Q. Any time. Let's make it generally.

A. Yes, the six cutters. I said to them, "Do you,"——

Q. When was this now? Let's get the date.

A. Well, the exact date I can't give you.

Q. What year? A. 1941.

Q. What part of the year?

A. Prior to the strike.

Q. Where did this occur?

A. In the cutting room.

Q. Of your plant? A. It did.

Q. All right. Now, we are going back to 1936 again. Do you remember the organization known as the Southern California Garment Manufacturers Association? A. Yes.

Q. Who formed that organization? I mean, who was the attorney for it?

Mr. Shapiro: That is objected to as being incompetent, irrelevant and immaterial.

Trial Examiner Erickson: It is overruled.

The Witness: I think—— [321]

Q. (By Mr. Sokol) C. R. Leslie?

A. Yes, I think Mr. Leslie was.

Q. The attorney for the Merchants & Manufacturers Association; am I correct?

(Testimony of Sam Bothman.)

A. I don't know his exact capacity over there, but C. R. Leslie is the one.

Q. Of the M & M? You know that, don't you?

A. I know he is connected with the M & M, but how, I don't know.

Q. Now, at that time you formed a group, didn't you, of manufacturers who were opposed to Unions? Isn't that right?

A. That's not right.

Q. Are you positive of that fact?

A. Yes.

Q. Let me ask you: Who were the members of that organization?

A. I don't recall.

Q. Was William J. Markowitz a member?

Mr. Shapiro: Your Honor, I know I have a continuing objection, but I do want to point out to the Court that I don't think it is within the scope of this examination or hearing to go into the entire political or social background of this man. He still has some rights. He can still associate and confer with other people, and to require him to testify as to what organizations he belonged to six years ago, and who the other members of the organization were [322] certainly seems to me to be going very far afield. I don't want to be captious about the thing, and I want a full disclosure of all of the facts, but I do think there should be a limit beyond which Mr. Sokol is not permitted to go, and he is certainly going back into history.

Trial Examiner Erickson: Well, I had in mind that he was going into some background that would assist the Board in making a final determination of

(Testimony of Sam Bothman.)

the issues in this case, but if you think he is not, I will ask Mr. Sokol now before he proceeds to state on the record the purpose of this examination.

Mr. Sokol: I intend to show that the witness signed an agreement that if he ever recognized a Union he would forfeit \$5000.

Trial Examiner Erickson: You may proceed then.

Mr. Shapiro: Why not produce the agreement and let's have it out. Why are we beating around the bush?

Mr. Sokol: I will develop it. I will let you have it. I want to show how clear his memory is.

Q. (By Mr. Sokol) You do know that you joined the Southern California Garment Manufacturers Association? You know that much?

A. Yes, sir.

Q. Now, do you know the names of any of the members?

A. I don't recall the names of any of them. I probably [323] would if my memory was refreshed. I can't recall all of them. There was a group there.

Q. Tell us the names of those that you do recall.

Well, we will save time. I will show you what purports to be the minutes of some of these meetings. I will show you here what purports to be the minutes of the Southern California Garment Manufacturers Association, Inc. for September 23, 1936.

(Handing document to witness.)

Mr. Shapiro: I am going to object to counsel showing that to the witness, or reading from it into

(Testimony of Sam Bothman.)

the record, or offering it into evidence, until it has been properly identified.

Trial Examiner Erickson: Maybe the witness can identify it. Let him proceed.

Mr. Shapiro: I think we should have the foundation first.

Mr. Sokol: It is merely for the purpose of refreshing his recollection.

Trial Examiner Erickson: I understand.

The Witness: Well, it gives you some names. You can certainly see it.

Q. (By Mr. Sokol) All right. Now, after you have read that, tell us the names of some of the members.

A. There are some of them there. [324]

Q. All right. Will you tell us?

A. Lutz.

Q. Who is first?

A. Yes. Bothman. Lutz—

Q. Who is Lutz? What concern was he with?

A. Lutz was with Marjorie Montgomery, I think, at the time.

Q. In your building?

A. At that particular time whether he was in our building or out in the other building, I am not sure. Goldberg.

Q. Yes. With what concern was he?

A. That is Gene Goldberg, the Gold Dress.

Q. In your building? A. Yes.

Q. Markowitz?

A. Yes, William J. Markowitz.



(Testimony of Sam Bothman.)

Q. In your building? A. Yes.

Q. Hunt?

A. No, not in our building.

Q. He was a member of the organization, was he? A. Yes.

Q. Jaffee?

A. I don't recall that gentleman.

Q. You don't recall him? [325] A. No.

Q. Well, now, those are a few of the members. Now, you know that Markowitz has never signed a contract with a Union? You know that, don't you?

A. Well, I have heard that he hasn't recently. I don't know previous to that.

Q. And you have never signed a contract with a Union? A. That's right.

Q. Now, do you recall that your organization drew up by-laws and a constitution?

A. Yes, it seems to me like we did.

Q. All right. Let me show you here—I will have this marked for identification.

Mr. Sokol: I would like to have this marked as Union's Exhibit No. 1 for identification.

(Thereupon, the document referred to was marked as Union's Exhibit No. 1 for identification.)

Q. (By Mr. Sokol) I am referring now to part 64 of the Senate Civil Liberties Committee Report, part 64, supplementary exhibits on Cabinet & Store Fixtures Association of California, and also on Southern California Garment Manufacturers As-

(Testimony of Sam Bothman.)

sociation, and others. I am referring specifically at this time to the minutes on page 23346.

I show you what has been marked for identification as [326] Union's Exhibit No. 1. You have read the minutes for September 23, 1936. Do you recall those minutes?

Mr. Shapiro: You mean, at that meeting?

Q. (By Mr. Sokol) Yes, were you present at the meeting? A. I probably was.

Q. And are those the minutes?

A. I couldn't say that for sure.

Q. As far as you know, are those the minutes?

A. They could be.

Q. Now, I show you on the same page the minutes for September 30, 1936. It appears that you were present there too. Is that right?

Mr. Shapiro: If I understand you correctly, Mr. Sokol, there is a transcript of the proceedings had before a Senate investigating committee?

Mr. Sokol: That is right.

Mr. Shapiro: This does not purport to be the original record of any minutes of the meeting?

Mr. Sokol: No, a copy, a true copy I think, of the original which was returned.

Mr. Shapiro: The original having been produced presumably off the Senate hearing?

Mr. Sokol: That is right.

Mr. Shapiro: I am going to object to counsel's interrogating the witness from that record, Your Honor. It is not the best evidence or any kind of evidence of anything. [327]

(Testimony of Sam Bothman.)

Trial Examiner Erickson: Well, let's hear what the witness has to say about that. If he has a memory about these matters, that will probably be better than the official records themselves.

The Witness: I can't recall this.

Q. (By Mr. Sokol) Well, you were president of the organization, weren't you?

A. I know, but I still can't recall what went on.

Q. Well, let's get that clear. Were you president?

A. It seems to me like I was elected president, yes. Then I went out on the road, and this is very vague to me, because I went out selling after that.

Q. Wait a minute. You said you went out selling the nine months prior to January, 1939, didn't you?

A. But I was selling all the time. I was selling all the time, but I was in the capacity of manager up to that time.

Q. But don't these minutes reflect——

A. (Continuing) Up to that period. Then I went out of Lettie Lee as a manager and took the sole job as a salesman.

Q. All I am asking you, Mr. Bothman, is for your memory of these events.

A. I can't recall.

Q. Your name is in all of these minutes?

A. That's right. [328]

Q. And yet you can't tell whether or not you were present or whether or not these are the minutes?

(Testimony of Sam Bothman.)

A. I can't recall the exact things that went on in those meetings. No, I can't.

Q. Who was the secretary?

A. I don't even recall that.

Q. All right. What was the organization formed for?

Mr. Shapiro: Now, we are not talking about another organization?

Mr. Sokol: No, I am talking about the Southern California Garment Manufacturers Association.

Mr. Shapiro: Yes. Sometime previously, when I made my original objection, we were talking about the Merchants & Manufacturers Association. I assume my objection goes to all of this line of questioning, Your Honor?

Trial Examiner Erickson: Yes, you may have that objection continuing. It is overruled.

The Witness: What was the question?

(The question was read.)

The Witness: To the best of my knowledge, for the exchange of various types and kinds of help in the industry, in our particular industry.

Q. (By Mr. Sokol) You mean employees, as an employment bureau? [329]

A. Somewhat, yes.

Q. What else was it formed for?

A. I can't recall exactly what all the reasons were for it. However, that is vague. Even that part is vague to me.

Q. Now, we want to get the facts, Mr. Bothman. Was it an employment agency, or wasn't it?

(Testimony of Sam Bothman.)

A. Partially.

Q. All right. Now, where did you have an employment office?

A. We never opened an office, but we exchanged help among ourselves.

Q. Among these firms?

A. That's right.

Q. What else did you do in that organization? Anything else that you recall?

A. Not particularly, no.

Q. All right. Now, do you recall that each member or firm signed a contract, each member of the organization, Southern California Garment Manufacturers Association, signed a mutual agreement between themselves?

A. It seems to me like there was. I don't recall whether they were signed or not. It seems to me like there was an agreement supposed to be made up, but I don't know whether they were signed up or not. I really don't remember. I [330] can't recall.

Q. Did you have any hand in the drafting of the agreement?

A. It seems to me like the entire group had a hand in the drafting of the agreement.

Q. Were you present?

A. I probably was present at some of the meetings, yes.

Q. And there was a discussion concerning the agreement?

A. Wages, and hours, and such, yes, as I recall. I recall a wage and hour discussion.

(Testimony of Sam Bothman.)

Q. I show you what purports to be that agreement. When was that agreement drafted?

A. I don't recall the time.

Q. 1936, '37 or '38?

A. I don't recall. Frankly speaking, I wouldn't remember.

Mr. Sokol: I will have this marked for identification as Union's exhibit next in order.

(Thereupon, the document referred to was marked as Union's Exhibit No. 2 for identification.)

Q. (By Mr. Sokol) Page 19353 of La Follette Report 52 of the Senate Civil Liberties Committee Reports, acting pursuant to Senate resolution 266, has been marked Union's Exhibit 2, for identification. I show you that page, and what purports to be that agreement, and ask you if that is the agreement which you drafted, which you helped to draft.

Mr. Shapiro: I haven't seen any of these documents, [331] Counsel, and will you tell me this: Do any of them purport to be executed on behalf of Lettie Lee, Inc.?

Mr. Sokol: Well, let's see what the answer is.

Mr. Shapiro: I would like to have an answer to that question. You haven't shown me the courtesy of an examination of the document.

Mr. Sokol: I am not going to tell you what our evidence is going to be. I am waiting for the testimony of this witness, and I will have other witnesses.



(Testimony of Sam Bothman.)

Mr. Shapiro: Then I will object, if the Court please, whether it is claimed or whether that record purports to show if it was executed by Mr. Bothman, if it was executed individually——

Trial Examiner Erickson: I am depending on the statement made by Mr. Sokol in receiving this evidence, that he intends to show that they entered into a contract that if he ever recognized a Union he would forfeit \$5000. I understand he is leading up to that.

Mr. Shapiro: My question is this: I want to know whether Mr. Sokol claims or whether that pamphlet there shows that any contract purportedly was entered into by Lettie Lee, Inc., or whether or not the contract he is talking about, if there was such a contract, and I know nothing of that, whether it was executed by Mr. Botham individually.

Trial Examiner Erickson: I would rather hear that from [332] Mr. Bothman. Then, Mr. Sokol, you may answer the question.

The Witness: What was that question again?

Trial Examiner Erickson: Read the question, please.

(The question was read.)

Mr. Shapiro: That is objected to upon the ground it assumes a fact not in evidence, that he helped to draft it. He didn't so testify.

Trial Examiner Erickson: He said he attended some meetings when it was drafted. I don't know what he means by that. He may answer the question.

(Testimony of Sam Bothman.)

(The document was examined by the witness.)

Q. (By Mr. Sokol) So that there won't be any confusion, how far have you read now?

(Witness indicating.)

Q. You have read through paragraph seven on page 19354 of this report. Now, up to this point does that appear to be the agreement which was drafted?

A. I can't tell for sure. I am trying to remember what was done and what was said.

Q. Well——

A. If you don't mind, Mr. Sokol, I would like to read this. So just be seated until I get through.

Q. I want to see what part of that you recall. Do you recall any part of what you have read up to now as being the part that was drafted at the time you were present? Just [333] answer that question. Will you answer that question? I don't want to go through the whole thing. I don't know whether you were present at all the meetings or not.

A. That is what I am trying to recall.

Q. Well, up to paragraph six on that page, do you recall that as being the substance?

A. I recall discussions in reference to some of these items mentioned here, but whether I was present at all, I do not know, see. I can't tell you for sure. I wasn't secretary of this organization, and

(Testimony of Sam Bothman.)

I didn't write this up, so, therefore, I can't tell you for sure.

Q. You recall discussions on all those items?

A. Up to the few things I have read so far, yes.

Q. Now, did you subscribe to those matters? Did you approve drafting the agreement up to that point? A. Up to what point?

Q. The point where you have read, up to paragraph six on page 19354?

A. Counsel, I would like to read this——

Mr. Sokol: I object to that.

The Witness: (Continuing) ——because it is a little confusing, and I don't know just exactly what he is referring to. Do you mind if I read this?

Trial Examiner Erickson: We will recess until 3:00 o'clock to give him an opportunity to read it.

[334]

Mr. Shapiro: Is there going to be any argument about my looking at it too?

Mr. Sokol: No. You can look at it too.

Trial Examiner Erickson: You can take it over to the counsel table, if you wish. We will be in recess.

(A recess was taken.)

Trial Examiner Erickson: The proceedings will come to order.

Mr. Shapiro: Your Honor, during the recess I called my office, and I am advised by my secretary that our file shows that Lettie Lee, Inc. was incorporated on January 19, 1939. This defendant or this respondent had no existence in law, or otherwise,

(Testimony of Sam Bothman.)

prior to that date, and I think that in view of that fact, this is a date which goes back to 1936, this is certainly entirely immaterial.

Trial Examiner Erickson: You mean technically?

Mr. Shapiro: I think technically, legally and every other way, your Honor. In the first place——

Mr. Sokol: Well, remember, Sam Bothman, Mr. Bothman, is on the stand. He is the one whom I am directing this to, who is in charge of the present labor relations of the present company, and I want to show what he stands for. It is not an inanimate object that we are dealing with.

Mr. Shapiro: It is not a question of what Mr. Bothman stands for. Or, let's assume that is the question. The question is: What does he stand for? [335] Not what he stood for six years ago. What is the limit to which Mr. Sokol can go? If he can go back six years, why can't he go back 10 years or 20 years?

Trial Examiner Erickson: Maybe he can.

Mr. Shapiro: Maybe he will. I think that is the evil of your inquiry. We have got to stop somewhere.

Trial Examiner Erickson: The objection is overruled.

Q. (By Mr. Sokol) Mr. Bothman, have you now read the agreement referred to as Union's Exhibit 2, for identification? A. I have.

Q. Was that the agreement which was drafted

(Testimony of Sam Bothman.)

by the Southern California Garment Manufacturers Association while you were present?

A. As I recall, there are some things in there that were discussed. As to the agreement, I am not sure as to exactly what the agreement was. Some of those things in there were discussed at our meeting.

Q. Was paragraph one on page 19353 of that report discussed? A. I think so.

Q. Was paragraph two, with the number two?

A. I don't recall for sure.

Q. But you do recall paragraph one?

A. I recall this one here (indicating), yes. I don't recall for sure that one (indicating). [336]

Q. Now, paragraph three. Was it discussed?

A. It seems to me like it was, yes.

Q. Was paragraph four discussed?

A. I am not positive of it. However, it could have been.

Q. It could have been. Now, what makes you say you are not positive?

A. Because this is six years ago and I am not positive. This is a long time hence.

Q. Let's see now. You know that paragraph three was discussed?

A. Which was paragraph three again?

Q. You just read it (indicating).

A. I really can't be positive that I can remember definitely anything that was discussed. Only generalities is all I can really remember.

(Testimony of Sam Bothman.)

Mr. Sokol: May I be permitted to read paragraphs one, two, three and four?

Trial Examiner Erickson: Mr. Sokol, I think you can shorten this by asking Mr. Bothman if he signed any agreement.

Q. (By Mr. Sokol) Do you have the agreement now? A. I do not.

Q. Did you sign an agreement?

A. I don't recall that we ever signed one, no. I don't recall that I ever signed an agreement.

Q. Didn't you instruct C. R. Leslie, the attorney for the [337] M & M, to draw the agreement?

A. I don't recall doing that, no.

Q. Is it that you don't recall—well, you have said that on a number of occasions here this morning. All I am asking you is this one thing now, and——

A. You asked me——

Q. ——you were president of the organization, and did you tell C. R. Leslie to draw that agreement, Union's Exhibit 2, for identification?

A. I don't recall that I did. If you will ask me something that happened within the last year or last year and a half, it will be very plain in my mind, but when you ask me something that happened six or seven years ago, I can't remember.

Mr. Shapiro: May I point out that the copy in the record does not purport to bear any signature, and it is undated, and there is no reason to assume it was ever signed.



(Testimony of Sam Bothman.)

Q. (By Mr. Sokol) All right. Did you discuss paragraph three? A. I don't remember.

Q. Now, let me ask you: At that time wasn't the International Ladies' Garment Workers' Union seeking to organize Lettie Lee, at the time of this discussion of this agreement?

A. I don't recall whether they were or not at that particular time. [338]

Q. Don't you remember that you discussed the question of banding together so that you would not have a Union in the plant?

A. No, I can't recall exactly what happened at that particular time. That has been six or seven years ago, and I don't remember. My mind is pretty well taken up with sales, in running the factory, in various other things, so that I don't remember going through what you are saying that I should remember there.

Q. You paid out some money, didn't you, for the firm, for the work of this Southern California Garment Manufacturers Association? You put up a little money, didn't you?

A. I don't recall exactly what that amounted to either.

Q. As a matter of fact, there was a strike going on at that time, wasn't there?

A. I don't know.

Q. You don't remember hiring under-cover agents?

A. At that particular time that you are referring to?

(Testimony of Sam Bothman.)

Q. Yes.

A. No, I don't recall that at that particular time.

Q. You have hired under-cover agents, haven't you?

A. What do you call "under-cover agents?"

Q. You don't know what the term means?

A. What do you mean when you say "under-cover agents?"

Q. Detectives for the purpose of finding out activities [339] among the employees.

A. I have never hired one for that purpose.

Q. Do you know Nelson Wolfe? A. Who?

Q. Nelson Wolfe? A. Nelson Wolfe?

Q. Yes, Nelson Wolfe, W-o-l-f-e?

A. I can't say that I do know Nelson Wolfe.

Q. Do you know Violet Tatum?

A. Yes.

Q. Now, do you know Nelson Wolfe?

A. Do you mean her husband?

Q. Yes. A. Yes.

Q. What part did he play in this?

A. In what?

Q. In the Southern California Garment Manufacturers Association?

A. It seems to me like he was a member in that particular organization.

Q. Wasn't he the contact man? Didn't he have the money?

A. I don't recall that. I wouldn't remember.

(Testimony of Sam Bothman.)

Q. Well, do you even remember William F. Hynes?      A. Do I remember him?

Q. Yes. [340]      A. William F. Hynes?

Q. Captain Hynes?

A. Oh, of the Red Squad you are referring to?

Q. Yes.      A. Yes, I do.

Q. Did you give him any money?

A. No, sir.

Trial Examiner Erickson: I will now sustain the objection made by counsel for the respondent.

Mr. Sokol: Well, Your Honor, I wanted to get a subpoena for Mr. Leslie, who drafted this agreement.

Trial Examiner Erickson: Make your application.

Mr. Sokol: Yes, I will make the application.

Mr. Shapiro: At this time I move to strike all the testimony preceding your Honor's ruling, with reference to all these prior matters, on the grounds previously stated in support of my objections to the introduction of the evidence, Your Honor.

Trial Examiner Erickson: That motion is denied.

Mr. Sokol: There is only one more thing I want to finish up in connection with this Association and that is:

Q. (By Mr. Sokol) Will you look at this list and state whether or not that was the list of members of the Association, right here (indicating) of the Southern California Garment Manufacturers Association? [341]

(Testimony of Sam Bothman.)

A. I think some of them were. However, I am not sure as to the exact list.

Q. Now, reading that list, will you state which were the members, as best you recall?

A. I recall Mr. Lutz of Marjorie Montgomery, and I recall Hunt, Broughton & Hunt, Mr. Hunt, and I recall Violet Tatum, I think, William J. Markowitz and that's all I recall of that group.

Q. And none of those firms have ever recognized the Union; is that correct?      A. I don't know.

Q. Now, do you recall the dates, or approximate dates, or any meetings with the cutters, in which you spoke to them concerning wages, hours, or working conditions, in 1941?

A. Do I recall the exact dates?

Q. Approximately.

A. I recall discussing wages with the cutters on two occasions. The exact dates I can't give you. However, I do think they were about a week apart. It seems to me like they were about a week apart.

Q. In what month.

A. Let's see. It might have been in June. I am not sure.

Q. At that time you knew the International Ladies' Garment Workers' Union, didn't you?

A. State that again. [342]

Q. The Cutters Local. You knew there was a Cutters Local in the city?

A. An individual Cutters Local?

Q. The Cutters Local?

A. I had heard that there was——

(Testimony of Sam Bothman.)

Q. And you had heard it from——

A. (Continuing) ——a Union A. F. of L., but I knew nothing about a Cutters Local.

Q. Now, you called your cutters together?

A. No. My cutters sent for me.

Q. They sent for you? A. Yes.

Q. And you met them in the cutting room?

A. That's right.

Q. Which of the cutters sent for you?

A. Mr. Lou Swartz came and told me that the boys wanted to talk to me about a raise.

Q. Did you grant a raise? A. I did.

Q. What was the raise?

A. I gave them their choice as to whether or not they wanted me not to put on another boy, so that they could get their overtime as time and a half in the event that we didn't, or whether they wanted a 15-cent an hour raise. I gave them their own choice, and they took the 15-cent an hour raise. [343]

Q. And that applied only to the cutters; is that right? A. At that particular time.

Q. Did you give any raise to Eunice?

A. Not at that particular time.

Q. Did you give it to any of the women?

A. I will have to look up my records to be sure. I am not positive.

Q. Were there any women at that meeting?

A. No.

Q. Did you give your whole plant a 15-cent an hour raise at that time?

A. I might have given my plant a raise prior

(Testimony of Sam Bothman.)

to that, the operators on piece work, so I am not sure about the exact amount of raises at the exact times that the raises were given.

Q. My question was simply this: At the time you gave the cutters a 15-cent an hour raise, did you give the rest of the employees the same raise?

A. I won't say that I gave them exactly the same raise. However, there were some raises given around that time.

Q. You mean individually here and there, or did you give a blanket increase?

A. During the course of the year they have all been increased, yes.

Q. I am going to give you this question again: At the [344] time you gave the cutters the 15-cent an hour raise, did you give a blanket raise to all of your employees?

A. When you say "blanket," what do you mean?

Q. Each and every employee.

A. In the house?

Q. In production.

A. On that particular day?

Q. That's right.           A. No.

Q. All right. How many times have you given raises to the cutters only?

A. Oh, that has happened off and on with individual cutters at various times. I think my payroll records will probably show that.

Q. But this time it applied to all of the cutters; is that right?



(Testimony of Sam Bothman.)

A. This time the cost of living was going up——

Q. Will you answer my question? Did it apply to all of the cutters on that occasion?

Mr. Shapiro: I am going to raise the same objection Mr. Nicoson did this morning. to the use of the word “cutters”, if he intends it to be a descriptive term applying to the six men who went out on strike.

Mr. Sokol: No, I am referring to the cutters, as described here by Mr. Wishnak. [345]

Mr. Shapiro: I am not concerned with Mr. Wishnak's description and the Court isn't bound by it.

Mr. Sokol: All right. I agree with you. I withdraw that.

Q. (By Mr. Sokol) Did that raise at that time apply to all of the men who were cutting in the cutting department? A. It did.

Q. Now, you never met me prior to the strike of July 24, 1941, did you? A. No, sir.

Q. I wrote you a number of letters, didn't I?

A. Yes, sir.

Q. And you received them, didn't you?

A. Yes, sir.

Q. Letters of September 8th, September 9th and September 13th; is that right?

A. I don't recall the dates, but I received some letters from you.

Q. Did you also get a telegram from the Union, requesting you to notify them whether or not you would bargain?

A. I don't recall the exact date of receiving

(Testimony of Sam Bothman.)

them, but, however, I do remember receiving letters from you, and it seems to me like I received a wire from the Union.

Q. And they were requesting you to bargain; is that correct? [346]      A. That's right.

Q. You responded to none of those communications?      A. That's right.

Q. Either by telephone or in writing?

A. That's right.

Trial Examiner Erickson: On what date was that telegram?

Mr. Sokol: The telegram was in September, was it, 1941?

A. I don't recall the date.

Q. Well, was it before or after my letters?

A. I don't recall that either.

Q. In the same period of time, would you say?

Mr. Sokol: Do you have that telegram?

Mr. Shapiro: No, I haven't it. If I had it, I would give it to you.

Now, if the Court please, this gentleman is Mr. Sokol's witness. He called him.

Mr. Sokol: I am having him on cross-examination, an adverse witness.

Mr. Shapiro: What do you mean, on cross? You didn't call him as an adverse witness. Do you contend that you are not bound by his testimony?

Mr. Sokol: We are not raising that now. I withdraw my statement, whatever difference it makes. [347]

Mr. Shapiro: I make this point, Your Honor:

(Testimony of Sam Bothman.)

I am mindful of the fact that you are not bound strictly by the rules of evidence, but if Mr. Bothman is being called by Mr. Sokol as his witness, which he is, and there is nothing in the record to the contrary, I think he ought to be limited to the type of questions he should be permitted to ask.

Trial Examiner Erickson: Then you should make objections. I haven't heard any objections.

Mr. Shapiro: I am objecting on the ground that all of the questions are leading and suggestive, and they are cross-examination on direct.

Trial Examiner Erickson: Bear that in mind, Mr. Sokol.

Mr. Sokol: I also expect to bear in mind that the witness has stated that he didn't remember in answer to a great many questions, and I haven't spoken to him, and, apparently, he is an adverse witness; at least, hostile.

Trial Examiner Erickson: Proceed. I will rule as the objections are made.

Q. (By Mr. Sokol): You knew from these letters that I was acting for the Cutters Local, didn't you? You read the letters? A. Yes.

Q. Now, you have received communications from other lawyers in the city, haven't you?

Mr. Shapiro: That is objected to as being incompetent, [343] irrelevant and immaterial, and not proving any issues in the case.

Trial Examiner Erickson: Overruled.

Q. (By Mr. Sokol, Continuing): On occasion?

A. Surely.

(Testimony of Sam Bothman.)

Q. And you have responded to those communications, haven't you?

A. Yes, if I thought it was necessary.

Q. Why didn't you think it was necessary to respond to my communications?

A. Because you weren't representing 51 per cent or more of our Lettie Lee factory, I didn't think that I should communicate with you.

Q. Did you ever tell me that? A. No.

Q. Did you ever tell any Union official that?

A. I didn't think it was necessary.

Q. You kept that to yourself, waiting for this opportunity to bring it up; is that it?

Mr. Shapiro: I am going to object to the form of the question.

Trial Examiner Erickson: Sustained.

Mr. Shapiro: On the ground it is leading, suggestive and argumentative.

Q. (By Mr. Sokol): Do you remember any conversation that [349] you had with Mr. Swartz, Lou Swartz, concerning the Union?

A. I can't recall that I remember any definite conversations, no.

Q. Did he tell you he had been up to my office?

A. No.

Q. You have had conversations now and again with Mr. Swartz concerning the Union, haven't you?

A. Oh, I have discussed it in general with practically everybody, certainly.

Q. When did those discussions commence?

(Testimony of Sam Bothman.)

A. Oh, I can't recall the exact date.

Q. Were they mainly in 1941?

A. Well, I think most of the discussions have come up since the strike, on whatever date that was.

Q. Well, you had also discussed it before the strike, hadn't you?

A. Not to a great extent, no.

Q. But to some extent?

A. Just in general, in a general manner. I never made a big issue of the Union question in my factory.

Q. That wasn't my question. Here is my point now: You do recall discussing the Union with your employees during 1941, both before and after the strike?

A. Yes, generally speaking.

Q. All right. But before the strike you didn't talk about [350] the Union to as many as after the strike; is that right?

A. Naturally.

Q. Now, with that in mind, since you limited your discussion, can you tell us the names of any of your employees that you discussed the Union with prior to the strike?

A. The six cutters that you have on trial here.

Q. And was that on the occasion of the raise that you gave them?

A. That's right. I made them——

Q. Why did you discuss the Union at that time?

A. As far as discussing the Union with them, I merely asked them, "Do you fellows belong to the Union?"

Q. Why did you ask that simple question?

(Testimony of Sam Bothman.)

A. Because I would like very much to know how my people stand in the factory. I have asked that question before of other people.

Q. Have you asked it of any other department?

A. Not as a whole, no, but maybe individually. I have asked individuals how they feel individually.

Q. Name any one individual in any other part of the plant you asked that of.

Mr. Shapiro: I am going to object on the ground that it is not proper direct examination.

Trial Examiner Erickson: Overruled.

The Witness: Would you mind reading that question? [351]

(The question was read.)

The Witness: Yes, I have asked it of a couple operators, I think, at times.

Q. (By Mr. Sokol): Well, give us their names.

A. No, I can't recall the names of them.

Q. What did you ask? You asked them if they belonged to the Union?

A. I asked them how they felt in regard to the Union, and my usual reply was, "We would rather take care of our own business."

Q. That was before the strike? A. Yes.

Q. That conversation? A. Yes.

Q. A week or two before the strike, would you say?

A. Oh, it might have been six months before the strike. I don't know.



(Testimony of Sam Bothman.)

Q. Well, offhand on throughout the year?

A. A girl would come in and say they were organizing, and I would say, "How do you feel in reference to it?" And I would say, "I would rather take care of my own business."

Q. Do you hire the people down there?

A. Yes.

Q. And you asked them if they belonged to the Cutters Local, didn't you? [352]

A. Belonged to what?

Q. You asked them if they belonged to a Union? Let's make it that way.

A. Sometimes I asked that question. Sometimes I didn't.

Q. It all depended on the looks of a person, I assume; is that right?

A. No, not necessarily.

Q. Why did you make the qualification of asking it sometimes, and other times not. Just the mood?

A. That's right.

Q. It all depended on when you really wanted to find out about the person's background, and then you would go into these matters thoroughly, wouldn't you?

A. Not necessarily.

Q. Now, what did you say to the men, generally? What did you say? "Do you belong to a Union?"

A. Not necessarily, no. What I would usually do is, if we take on new people, ask them where they formerly worked, and if they worked in the type of a factory that makes the same type of

(Testimony of Sam Bothman.)

merchandise that we make. Why, then I would assume that they were more or less suitable for our line, and that is what I was more interested in than anything else.

Q. But then you would ask them if they belonged to a Union?

A. Sometimes I did. Sometimes I didn't. It wouldn't have made any difference. [353]

Q. Did some of the people tell you they belonged to a Union?

A. It seems to me like some of them did, yes.

Q. Will you name any employee that told you they belonged to the Union that is working for the plant, and give us the date?

A. I can't recall any of those things, because they are too vague. I really wouldn't be able to give you anything like that definite.

Q. Can you name any employee that told you he was a member of the Union, who is working now, or had worked at any other time?

A. Formerly a member of a Union?

Q. Can you name any person who came up to you for work, who said then and there they were a member of a Union, and to whom you gave a job?

A. No, I can't recall any of them that told me at that time. However, I would not have let that stop me from giving them a job, had they told me they were members of the Union.

Mr. Sokol: I move to strike that as not responsive.

(Testimony of Sam Bothman.)

Trial Examiner Erickson: Let it stand.

Q. (By Mr. Sokol): Well then, why did you ask the question? You mean you wanted C.I.O. people in your plant, instead of A. F. of L. people? Is that what you mean?

A. It didn't particularly make any difference to me whether [354] they belonged to the Union or not, if they could perform their duties in the proper manner.

Q. Why did you ask the question? Tell the Trial Examiner that.

A. Well, I did not always ask the question.

Q. Well now, listen.

A. Frankly—

Q. Here is my question, Mr. Bothman: You have already stated that you sometimes asked a prospective employee, "Do you belong to a Union?" Now, why did you ask that question?

A. Well, I asked the question sometimes because of the fact—due to the fact that most of my employees did not belong to a Union, and sometimes a person would be uncomfortable if they did.

Q. How did you know that most of the employees did not belong to the Union?

A. Through the fact of what they said about it. As far as knowing for sure, I did not know, and I don't know today.

Q. Now, do you recall discussions with the attorney for the Merchants & Manufacturers Association, don't you?

A. Discussing what, and when, and where?

(Testimony of Sam Bothman.)

Q. You do remember conversations about labor conditions at Lettie Lee's? A. When?

Q. I will ask you when. Do you recall any discussions at [355] any time in the last five or six years with the attorney for the M & M?

Mr. Shapiro: I am going to object to that question.

Trial Examiner Erickson: I have already sustained your objection.

Q. (By Mr. Sokol): Now, at the time that you gave the men who were cutting the 15-cent an hour rate, did you tell them that that unit was not appropriate for the purposes of bargaining?

A. I did not.

Mr. Sokol: That is all.

Trial Examiner Erickson: Step down.

(Witness excused.)

Trial Examiner Erickson: Do you have any more witnesses, Mr. Sokol?

Mr. Sokol: No, not now. I may say, Mr. Examiner, that I was going to subpoena Mr. C. R. Leslie, to show that he drafted this agreement, and the agreement provides for a \$5000 penalty if you ever sign up with any Union. He drafted it at the instance of the Southern California Garment Manufacturers Association, and there is testimony to that effect before the La Follette Committee, but if Your Honor feels that it will not aid the Board, I don't want to go to the trouble of subpoenaing him.

Trial Examiner Erickson: I didn't say it

wouldn't aid [356] the Board. I said it would aid the Board, and that was my ruling, but you were evidently fishing here without any foundation for the questions.

Mr. Sokol: I wouldn't say that, because he was the president of the organization and the minutes said he was present.

Trial Examiner Erickson: He had no memory of it, and it was just taking up pages in the record.

Mr. Sokol: I apologize for that.

Trial Examiner Erickson: Well, you don't have to.

Mr. Sokol: That is the Union's case except for Mr. C. R. Leslie.

Trial Examiner Erickson: Proceed, Mr. Shapiro.

Mr. Shapiro: I will call Miss Usher. Ordinarily, I would prefer to put some of this testimony in in a different order, but I don't want to keep these people away from the plant longer than is necessary.

Mr. Sokol: Before you proceed, may we go off the record for a minute, with your permission?

Mr. Shapiro: Yes.

Trial Examiner Erickson: Off the record.

(Discussion off the record.)

Mr. Sokol: May I go on the record now and state the purpose?

Trial Examiner Erickson: Yes. [357]

Mr. Sokol: Mr. Examiner, I apply for a subpoena for C. R. Leslie, attorney for the Merchants

& Manufacturers Association of Los Angeles. The purpose of this subpoena is to have Mr. Leslie produce the records or testify concerning the drafting of an agreement for the Southern California Garment Manufacturers Association, Inc., relating to an agreement between the members of that Association, providing in part that they shall never recognize a Union, and also, that in the event they recognize a Union, they would forfeit the sum of \$5000.

Trial Examiner Erickson: Do you have proof that this Lettie Lee, Inc. was a part of that?

Mr. Sokol: The only proof that I have is from the witness stand. The witness testified that at the time he was manager and the firm was known as Lettie Lee. That is the only proof to date. I am not going by what Mr. Shapiro says about that. I am going by what the witness said. Mr. Bothman testified that he was the president of the Southern California Garment Manufacturers Association. At that time he was manager of Lettie Lee, Inc., and he said it was a corporation at that time.

Trial Examiner Erickson: I understand that all right, but the question is: Do you have any proof that the agreement was actually consummated and entered into?

Mr. Sokol: No. The only proof I have is this, that [358] Lettie Lee, the firm of Lettie Lee, was a party to the agreement.

Trial Examiner Erickson: Talking about the drafting?

Mr. Sokol: To drafting it.



Trial Examiner Erickson: But you have no proof that they actually entered into an agreement or that the agreement ever was executed?

Mr. Sokol: That is correct. I don't think that is necessary. If they instructed their attorney to prepare it, he can state whether or not they executed it. I don't know.

Mr. Shapiro: That isn't the best evidence of whether there was an agreement, and I might say this, your Honor. This all comes as a bolt from the blue, so to speak, so far as I am concerned. I never heard of any of these proceedings before, and I don't know anything about an agreement, and I never heard of these associations until this afternoon.

Trial Examiner Erickson: I will deny the application for the subpoena. Proceed.

---

### EUNICE DOROTHY USHER,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

#### Direct Examination

By Mr. Shapiro:

Q. State your full name, please.

A. Eunice Dorothy Usher.

Q. Where do you work, Miss Usher? [359]

A. Lettie Lee, Inc.

Q. How long have you been employed there?

(Testimony of Eunice Dorothy Usher.)

A. In this particular stretch, I have been there since, I believe it was, June or July a year ago.

Q. June or July. Do you mean of 1940?

A. Yes.

Mr. Nicoson: Would you answer, please?

The Witness: Yes.

Q. (By Mr. Shapiro): You will have to answer out loud. A. I am sorry.

Q. The reporter isn't watching you when you nod your head. In what department do you work?

A. I work in the cutting department.

Q. Will you describe the type of work that you do? A. I do cutting.

Mr. Nicoson: I object to that. It is not an answer.

The Witness: It isn't complete.

Trial Examiner Erickson: I didn't hear the objection. I am sorry, Mr. Nicoson.

Mr. Nicoson: I object to that. It is not an answer. He said for her to describe the work, and she said she did cutting.

Mr. Shapiro: She hasn't finished.

The Witness: I haven't finished.

Trial Examiner Erickson: Finish your answer.

[360]

The Witness: I do a special type of cutting part of the time. I lay the pattern on the material, and it has a particular design in it, owing to the fact that it has been tucked or pleated, or some such matter, and it has to be laid on there in a very

(Testimony of Eunice Dorothy Usher.)

careful manner, and I mark around it, and cut it out.

Q. (By Mr. Shapiro): What instruments or tools do you use?      A. A scissors.

Q. Do you use any power tools?

A. Sometimes.

Q. There are more cutters employed in the same department that you are in, are there not?

A. Yes, sir.

Q. Have you ever done the same kind of work that they do?      A. Yes, sir.

Q. How often?      A. Frequently.

Mr. Nicoson: What was that answer?

Trial Examiner Erickson: "Frequently."

The Witness: Frequently.

Q. (By Mr. Shapiro): Is there any difference, that you know of, between the type of work that the men cutters do and the type of work that you do?

Mr. Sokol: I object to that on the ground it calls for the conclusion of the witness. [361]

Trial Examiner Erickson: Sustained.

Q. (By Mr. Shapiro): Will you describe the type of work the men cutters do?

A. They lay markers on material, and cut it out either by scissors or machine.

Q. And what do you do?

A. I do that part of the time. Part of the time I work directly with the patterns, without markers.

Q. But, as I understand you then, either directly from the pattern or the marker, you cut around the

(Testimony of Eunice Dorothy Usher.)

chalk marks, where drawn, cutting out the material in accordance with the pattern or the marker?

A. Yes, sir.

Q. Is that correct?           A. That's correct.

Q. Do you then require any more ability or skill to do what has been referred to here as sloping?

Mr. Nicoson: I object to that as calling for a conclusion of the witness.

Q. (By Mr. Shapiro, continuing): —than it does ordinary cutting?

Mr. Nicoson: I object to that as calling for a conclusion of the witness.

Mr. Shapiro: How else is the Court going to find out?

Mr. Nicoson: There isn't any evidence here that she [362] knows anything about sloping.

Trial Examiner Erickson: I will sustain the objection for the time being.

Mr. Shapiro: All right.

Q. (By Mr. Shapiro): Do you devote some of your work to doing what is called sloping?

A. Some of it, yes.

Q. Now, what is sloping?

A. Well, it is what I just described as laying the pattern on specially prepared materials, and marking around that, and cutting it.

Q. Now, you say specially prepared material. In what sense or in what respect is it specially prepared?

A. Such as material that has been sent out for

(Testimony of Eunice Dorothy Usher.)

pleating or tucking or embroidering, working on similar materials that need special preparation before they are cut.

Q. Now does it require any more skill or precision to perform that operation of sloping than it does the other cutting operations that you have previously described? A. I would say yes.

Mr. Nicoson: I object to that. That is a self-serving declaration.

Trial Examiner Erickson: Overruled.

Q. (By Mr. Shapiro): What is your answer?

A. I would say yes. [363]

Q. Do you believe that, in so far as the work that you do at Lettie Lee, you are just as much a cutter as the men who are employed in that department? A. I certainly do.

Mr. Nicoson: I object to what she thinks.

Trial Examiner Erickson: I will sustain the objection.

Mr. Nicoson: I move to strike out the answer, please.

Trial Examiner Erickson: It will be stricken.

Mr. Shapiro: I think it goes to the weight rather than the admissibility. I think a person ordinarily has some conception of what kind of work they are doing.

Mr. Nicoson: It isn't a question of what she thinks. The Board will make that decision.

Trial Examiner Erickson: Sustained. Proceed.

Q. (By Mr. Shapiro) Now, on the material that

(Testimony of Eunice Dorothy Usher.)

you work on in your sloping operations, you place the marker on the material, do you?

A. I place the pattern on the material.

Q. Or the pattern. And you trace around it with chalk?

A. Yes, sir.

Q. And you cut around the chalk marks?

A. Yes, sir.

Q. Have you ever a cut a dress?

A. Often.

Q. Pardon? [364]

A. Often.

Q. What do you do when you cut a dress?

A. Sometimes I use the markers. Sometimes I make my own lays, as for samples.

Q. When you cut a dress, do you do exactly the same type of work as the men cutters do?

A. I do.

Mr. Nicoson: I object to that. It calls for a conclusion of the witness.

Trial Examiner Erickson: Sustained.

Mr. Nicoson: I move to strike the answer, if there is one.

Trial Examiner Erickson: It will be stricken.

Q. (By Mr. Shapiro) Tell us what you do when you cut out a dress. Give us each operation. You see, as far as I personally am concerned, I don't know very much about this subject. Some of these other gentlemen know more about it than I do. So if you will just go into as much detail as you can, I will appreciate it.

A. When I am given a dress to cut, I get the marker for it, if it is a regular stock dress, and look



(Testimony of Eunice Dorothy Usher.)

at the ticket, and I get the marker, spread out my material, lay the marker, and proceed to cut it, just as any cutter would.

Q. What do you do after you have cut it?

A. Bundle it up, and send it down to the end of the room, [365] where it is assorted.

Q. Have you seen any of the men cutters cut a dress? A. Surely.

Q. What do they do?

A. The same procedure.

Q. Have you ever been asked to join this Cutters Local No. 84? A. I think not.

Mr. Shapiro: That is all.

#### Cross Examination

Q. (By Mr. Nicoson) What do you mean, you think not? Don't you know?

A. Positively not preceding the strike.

Q. You were not asked to join?

A. I was not.

Mr. Nicoson: Just a moment. I want to question you.

Mr. Shapiro: Just a moment.

The Witness: Oh, I beg your pardon.

Mr. Shapiro: One further question, if I may: How long have you been engaged in doing the same type of work that you have testified to on the stand?

The Witness: I have been a cutter for 10 years.

Mr. Shapiro: That is all.

Q. (By Mr. Nicoson) Where have you cut?

A. I have cut at a good many places. I have cut for [366] Marjorie Montgomery.

(Testimony of Eunice Dorothy Usher.)

Q. When did you cut there?

A. Approximately three or four years ago.

Q. How long were you at that concern?

A. About two years.

Q. Name some other places where you have been a cutter.

A. At Caltex Sportswear Company.

Q. Is that located here in Los Angeles?

A. It is.

Q. When did you work for them?

A. When?

Q. Yes.

A. That was my first job. Approximately 10 years ago. I was with them three years.

Q. What did you begin doing when you went to work at Caltex? A. Cutting.

Q. Right off the bat? A. Always a cutter.

Q. Now, describe to us some things that you did the first day you were there at this Caltex Company. What is it? A dress shop?

A. Yes, it is.

Q. Do you have any recollection of what you did that first day? [367]

A. I did cutting. They started me right out.

Q. Tell me what you cut.

A. Well, I cut dresses.

Q. How would you cut dresses?

A. I cut it according to the lines.

Q. Who put the lines on?

A. There were markers, who made the lines at the first.

(Testimony of Eunice Dorothy Usher.)

Q. They were already marked when they came through? A. Yes, sir.

Q. And this was your first day in the plant?

A. Yes, sir.

Q. The first day you had ever cut anything—right? A. Yes.

Q. How many dresses would you cut at a time?

A. One at that particular house, because that was a special measurement house.

Q. You were using the shears?

A. Yes, sir.

Q. You didn't use the power machine there?

A. Not to begin with.

Q. How long was it before you learned to use the power machine?

A. I don't recall exactly.

Q. Well, just about how long?

A. I learned while I was there. [368]

Q. Well, I understand that, but how long after you began to work there was it before you started to use the power machine? A. I couldn't say.

Q. No recollection of that at all?

A. No. It has been 10 years.

Q. But you do have a recollection of beginning to use the power machine while you were at Caltex? A. Yes, sir.

Q. How long did you use the power machine while you were at Caltex?

A. Not a great deal. They didn't use them a great deal there.

(Testimony of Eunice Dorothy Usher.)

Q. So your experience with the power machine at Caltex was rather small; is that correct?

A. Comparatively.

Q. Now, where did you next work?

A. Probably at Bettermade Garment Company.

Q. Is that here in Los Angeles? A. It is.

Q. What type of products do they make?

A. Dresses?

Q. Dresses? A. Yes, sir.

Q. Silk dresses? [369] A. Yes, sir.

Q. And did you cut there? A. Yes, sir.

Q. What kind of equipment did you use there?

A. The usual cutting tools.

Q. And what are they?

A. Scissors, chalk and a machine.

Q. By machine, do you mean the power cutter?

A. Yes, sir.

Mr. Shapiro: Miss Usher, can you keep your voice up, please?

The Witness: Oh, yes, I will try.

Mr. Shapiro: It is a little difficult to hear you.

Q. (By Mr. Nicoson) Did you do any group cutting while you were at this place, where you cut more than one dress at the same time?

A. Yes.

Q. How many would you cut at a time?

A. I don't recall.

Q. Do you have any idea? A. No.

Q. Did you ever have occasion to cut only one dress? A. I suppose occasionally.

(Testimony of Eunice Dorothy Usher.)

Q. Do you now remember whether you did or you did not?      A. Not definitely. [370]

Q. You don't remember whether or not you cut one dress?      A. Not definitely.

Q. And you don't remember how many dresses you cut with the power machine as a rule?

A. Correct.

Q. How long were you at this place of employment?      A. One season.

Q. One season. What is that? What is a season?      A. Four or five months.

Q. And what months usually constitute the season?

A. I think it was around approximately July until November in that case.

Q. How many people were employed at that plant?      A. It was a large plant.

Q. About how many?      A. Over 100.

Q. Over 100. How many cutters were employed there?      A. I don't recall.

Q. Give us your best recollection.

A. I would say—I don't know—perhaps between six and a dozen.

Q. Can't you be a little more definite than that?

A. I really don't know.

Q. There were more than six and less than twelve, would you say that? [371]

A. Roughly speaking.

Q. Where did you next work?

A. Oh, I don't remember my whole history; for a custom made tailor.

(Testimony of Eunice Dorothy Usher.)

Q. Custom made tailor. Is that right?

A. Yes, sir.

Q. And is that here in Los Angeles?

A. It was.

Q. What kind of products do they make?

A. Tailored suits and coats.

Q. Tailored suits and coats? A. Yes, sir.

Q. That is wool, isn't it? A. Yes.

Q. Did they make any silk dresses?

A. No, sir.

Q. All wool? A. Yes, sir.

Q. No cotton? A. No.

Q. How large a plant was that?

A. Around a dozen employees.

Q. Around a dozen employees? A. Yes.

Q. How many cutters? [372]

A. I was the cutter.

Q. You were the only cutter?

A. And there were the boss and foreman and there was another man who did some.

Q. Did you do anything else besides the cutting there?

A. Part of the time I supervised the shop.

Q. That would be the operators, that type of employee? A. Yes.

Q. Did you ever function as an operator yourself? A. No, sir.

Q. You have no experience as an operator?

A. No, sir.

Q. Yet you were put in charge?

A. Well, of production.



(Testimony of Eunice Dorothy Usher.)

Q. And supervision of the operators?

A. And production.

Q. That is right?

A. It was handing out the work and seeing that it went through.

Q. Well, did your supervision only go to the handing out of the work, or did you have supervision over the operators?

A. Did I tell them—I told them what needed to be done, but not how to do it.

Mr. Shapiro: What plant is this, Mr. Nicoson? I am afraid I missed that. [373]

Mr. Nicoson: The Custommade.

The Witness: That wasn't the name of the shop.

Q. (By Mr. Nicoson) That wasn't the name?

A. It was a tailor shop.

Q. It was a tailor shop. It wasn't a manufacturing concern; is that right?

A. I don't know the distinction.

Q. Didn't I understand you to say you made suits? A. Yes, sir.

Q. And what else? A. And coats.

Q. And coats. They were tailored?

A. Yes, sir.

Q. What type of equipment did you use here?

A. Shears.

Q. Shears. No power machine here?

A. Not that I recall.

Q. Where next did you work?

A. Lettie Lee.

Q. When did you begin to work for Lettie Lee?

(Testimony of Eunice Dorothy Usher.)

A. I don't recall the exact date. I think it was in the summer. I don't recall the exact date.

Q. You don't recall?

A. No, I am not sure.

Q. When you began to work for Lettie Lee, what did you start [374] in doing?

A. Cutting.

Q. By cutting, what were you doing? Tell me just exactly. What was your first job there, do you recall?

A. No, I don't.

Q. Do you recall any of your first jobs there?

A. It was the regular procedure of cutting. I don't recall any detail.

Q. Did you go in on the cutting table and take your tickets along with the men?

A. I did.

Q. And you got your goods out of the stock room?

A. I got it in the same manner that the other cutters got theirs.

Q. Now, did you get it yourself?

A. I don't recall the method at that time.

Q. What is the method now?

A. The material is ordinarily brought to the cutters.

Q. Brought to you by a girl, isn't it?

A. Yes.

Q. It is brought to all the cutters by a girl, isn't it?

A. Usually.

Q. Even to the men; that is true, isn't it?

A. Usually.

(Testimony of Eunice Dorothy Usher.)

Q. Now, in June of last year, you weren't working on a cutting [375] table at that time, were you, with the men? A. This last June?

Q. Yes. A. Yes.

Q. What table were you assigned to?

A. I couldn't say.

Q. You couldn't say? Is that right?

A. Well, I shift around. I don't recall exactly which table I was on at that time.

Q. Do you shift——

A. They aren't numbered.

Q. Did you shift around in June?

A. I don't remember definitely.

Q. You don't remember about that. Did you shift around in July?

A. I frequently shift. I don't remember exactly when.

Q. And you don't remember whether or not you shifted in July? A. I don't remember.

Q. Do you remember if you shifted in August?

A. Well, sometimes they would be using my table, and I would have to use another one. That is why I shifted.

Q. Can you please tell me whether or not you shifted in August? A. No. [376]

Q. You don't know? A. No.

Q. Will you state whether or not you shifted in the month of May last year?

A. I don't recall as to any dates.

Q. You don't recall that. Will you state whether

(Testimony of Eunice Dorothy Usher.)

or not you shifted during the month of September last year?

A. I still say I don't recall any specific dates. They are frequent.

Q. Now, you spoke something about tucking or pleating. You don't cut that goods when it is originally cut from the bolt, do you?

A. Sometimes. Not usually.

Q. As a usual thing, you don't do it? That is right? A. That's right.

Q. As a matter of fact, you don't get the garment, or this piece of the garment, until after it has been cut by the men cutters, sent to an outside concern to be tucked or pleated, and then it comes back to you? Isn't that right?

A. In most cases.

Q. I beg pardon? A. In most cases.

Q. Well, isn't it a fact in all cases?

A. No. Sometimes I cut the garment and send the material out. [377]

Q. When was the last time you have done that?

A. I don't recall a definite date.

Q. Did you do that in the month of June, last year? A. I probably did.

Q. Well, do you know whether or not you did?

A. I don't recall definitely.

Q. You don't recall. Did you do it in the month of July, last year?

A. I shift back and forth from cutting to this so-called sloping, and other things. I don't remember when I have done these particular things.

(Testimony of Eunice Dorothy Usher.)

Mr. Sokol: May we have the other things?

Mr. Nicoson: Yes. I would like to have an answer to my question.

The Witness: Well, you are saying sloping——

Mr. Nicoson: Will you read my question, Miss Reporter, please?

(The question was read.)

Mr. Nicoson: Perhaps you should read the previous question, which has to do with June, so that the witness will be sure she understands.

(The record referred to was read.)

Q. (By Mr. Nicoson) That answer would hold true, would it not, to the months of July, August, September and every month you have been up there? [378] A. Yes, sir.

Q. Do you recall a single instance within the last six months, in which you cut a garment prior to the time it went out to be pleated or tucked?

A. Yes.

Q. When?

A. I don't remember the dates, but I am sure that I did.

Q. Well, about when?

Mr. Shapiro: Your Honor, I am going to object to this line of cross-examination. It could be only for one purpose, to test the credibility of the witness, and, certainly, it isn't a fair test to expect her to remember all of the dates or in what months she performed a particular operation in this factory. I mean, that challenges reason. If the witness claimed

(Testimony of Eunice Dorothy Usher.)

to remember these specific dates, I would doubt her veracity. I don't think it is a fair test of the witness, a test of the witness' credibility.

Trial Examiner Erickson: I don't think that is the purpose of these questions. The objection is overruled.

Mr. Nicoson: Will you read the question, please?

(The record was read.)

The Witness: Well, I know I did as lately as November.

Q. (By Mr. Nicoson) As November. On one occasion? A. What was that question?

Q. On one occasion? [379]

A. What was that question?

Q. On one occasion?

A. No, on more than one occasion.

Q. On more than one occasion?

A. Yes, sir.

Q. In November? A. Yes, sir.

Q. What about in October?

A. I very likely did.

Q. How many times? A. I don't recall.

Q. Are you sure whether or not you did in October? A. I am not definitely sure.

Q. What about August?

A. I don't remember exactly what dates and days I did these things.

Q. Yes. You said that about six times. Now, will you please answer my question. You can say you know or you don't know.



(Testimony of Eunice Dorothy Usher.)

A. I don't know.

Q. What about July?

A. I still don't know.

Q. What about June?

A. I still don't know.

Q. What about May? You don't remember; is that correct? [380]

A. Just what am I being questioned on? As to my remembering what?

Q. If you ever cut any garments prior to the time it went out to be pleated.

A. I have frequently, but I don't remember on what dates and in what months.

Q. So frequently that you can't remember it; is that right?

Mr. Shapiro: I object to that on the ground it is argumentative.

Trial Examiner Erickson: Sustained.

Q. (By Mr. Nicoson) Just what is it that you do to a garment, after it is tucked or pleated?

A. After it is tucked and pleated, I lay the pattern on it, mark around it, lay it in the special position that it has to be according to design or pleating or embroidery, or whatever it is, put this on the exact spot it is supposed to be, draw around it, and cut it out.

Q. How do you know which is the exact spot?

A. According to my pattern, and according to my instructions.

Q. The pattern indicates where it should be laid?

A. Yes, sir.

(Testimony of Eunice Dorothy Usher.)

Q. After you get through with it, what have you got done? What is your finished product?

A. It is a certain portion of the garment.

Q. All right. What portion? [381]

A. It varies.

Q. Well, name some of them.

A. Sometimes it is a blouse.

Q. You cut the entire blouse? Is that what you are saying?

A. This represents a portion of a blouse.

Q. A portion of a blouse. What portion?

A. It varies.

Q. What portion of the blouse?

A. It varies according to the design.

Q. Well, name me some of the examples which you cut.

A. It might be a front, set in.

Q. What is it you cut in the front?

A. A certain portion of a garment.

Q. Can't you name the portion?

A. That is trim.

Q. Can't you name the portion you cut? After all, for ten years you have been cutting, aren't you able to name the portion?

A. It might be a front panel, it might be a collar, it might be a portion of the sleeve.

Q. Well, it might be. Is it? A. It varies.

Q. How often does it vary?

A. With every style.

Q. Every style. How many of these do you cut at one time. [382]

A. Sloping is usually done one at a time.

(Testimony of Eunice Dorothy Usher.)

Q. Is that what you call sloping?

A. That is what we call sloping.

Q. What else do you do besides cutting panels, and the like?

A. I do regular cutting.

Q. What is that?

A. Getting a marker, stretching the material out, laying the marker on it and cutting according to the lines.

Q. What have you got after you have finished?

A. A dress.

Q. A dress. You cut all of the parts?

A. Usually.

Q. How often do you do that?

A. As often as given to me to do.

Q. How often is that?

A. It varies according with the season.

Q. Well, how often did you do it last June?

A. Last June I probably did it quite often, because the season was slow.

Q. Well, you probably did. Did you or did you not do it?

A. I don't definitely remember.

Q. You don't know. What about July?

A. May I say that when the season is slow and there isn't much—— [383]

Q. Will you please answer my question?

Mr. Shapiro: She is, Counsel, if you will let her.

Mr. Nicoson: I don't think she is.

The Witness: What was the question?

Mr. Nicoson: If she wants to make a statement, she prefaces it with "May I say."

(Testimony of Eunice Dorothy Usher.)

The Witness: May I have the question, please?

(The question was read.)

Mr. Nicoson: You had better read the preceding question also.

(The record referred to was read.)

The Witness: I don't recall definitely.

Q. (By Mr. Nicoson) You mean you don't recall for August, September, November and the rest of the year; do you? That is the truth?

A. Not definitely, as to how often.

Q. Why is it necessary to have more skill as a sloper than it is as a man cutter?

A. Well, in the Lettie Lee Shop they want the sloping done with special care, because if it is crooked, it shows up very badly. It takes a very good eye to center things properly, and if a person works carelessly, it just isn't accurately done. It takes a good deal of accuracy to do it properly, as they require in the Lettie Lee Shop.

Q. Is it only in the Lettie Lee Shop that it requires more [384] skill to be a sloper than it does a cutter?

A. In some places they don't seem—sloping goes out any old way, but it isn't true in Lettie Lee. They are very particular.

Q. Then can you tell me why a sloper gets half as much as a cutter does? A. No, I can't.

Q. You don't know about that. But you know that is true, don't you?

A. I would say that I do not get the same.

(Testimony of Eunice Dorothy Usher.)

Q. What do you get?

A. I get 60 cents an hour.

Q. 60 cents an hour. What does that figure out in a week?

A. \$24.

Q. Do you know how much a man cutter gets?

A. Not exactly.

Q. About \$45, isn't it, at Lettie Lee?

A. I have never asked.

Q. You don't know about that?

A. I have never asked.

Q. Well, do you know about it?

A. I do not.

Q. What percentage of your time is spent in sloping?

A. When there is a great deal of sloping, I do that. When there isn't, I do other things, I do cutting. [385]

Q. What is the normal assignment of sloping?

A. In a busy season, where there are many sloped styles in the line, it occupies the major part of my time.

Q. Do you know how to grade a pattern?

A. I do.

Q. Have you ever graded a pattern?

A. I have.

Q. What do you do when you grade a pattern?

A. I go through a great many very exacting—

Q. What are they? I want to know just exactly what you do when you grade a pattern.

A. Well, it is rather complicated.

Q. That is all right. You explain it to us.

(Testimony of Eunice Dorothy Usher.)

A. Well, I lay the pattern down on a beginning line.

Q. What is the beginning line? Let's have that straight.

A. Well, it varies. If it is a straight line, I usually begin with a straight line, or if it is a fold, I begin with a fold.

Q. How do you know how to begin?

A. According to judgment.

Q. According to judgment? A. And rules.

Q. And rules? A. Yes.

Q. What kind of rules? [386]

A. Well, just the general proceeding in grading.

Q. All right. Then what is the next step?

A. It depends——

Q. You don't need to look over to Mr. Bothman.

The Witness: I wasn't looking at Mr. Bothman.

Mr. Shapiro: She happened to be looking at me, and I might state that she can't get any information from me on how to grade a pattern. I would be the last person in the world on how.

Miss Usher, just tell it in your own way. Don't be nervous about this thing.

Mr. Nicoson: I object to any instruction of the witness on cross-examination.

Trial Examiner Erickson: Proceed.

The Witness: It is so complicated I scarcely know where to begin.

Q. (By Mr. Nicoson) That is what I thought. Now, go ahead and begin.

A. Well, if it is the front of a waist, if there is



(Testimony of Eunice Dorothy Usher.)

a fold, center fold, I put the center fold of the 10's, on the center fold, and draw in my neckline.

Q. For what purpose do you put that on the fold?

A. Well, that is the beginning point. The purpose of grading is to increase the pattern from size to size, according to special rules. [387]

Q. What do you put 10 down there for?

A. That is the original sample pattern, from which you begin all the grades.

Q. Now, what is the next step? What is the next step? A. Well, I draw in the neck.

Q. What do you do then?

A. Then I shift out  $3/16$ —

Q. Well, first you draw in the neck, you say?

A. Yes.

Q. What do you do when you draw in the neck?

A. I draw around the edge of the pattern.

Q. With a piece of chalk?

A. With a pencil, a very sharp pencil.

Q. All right. Then you do what?

A. Then I shift straight across  $3/16$  of an inch, and get the shoulder point and the top of the arms out.

Then I shift across another  $3/16$  of an inch down, or  $1/8$ , and get the lower part of the arms out.

Q. Why do you do that?

A. It is just the procedure of grading a pattern, to get the line.

Q. You don't know why you do it?

A. Well, I don't know how to explain it any differently.

(Testimony of Eunice Dorothy Usher.)

Q. There must be some reason for it. Isn't there?

A. Well, it is just—I don't know how to explain it [388] any differently than—it is just the rules and the procedure and the method to do it. I could show you much easier, if that would be of any assistance.

Q. You don't know then why you make these shifts?

A. Well, that is the way you increase a pattern from size to size. It is a definite routine.

Q. That is what you are doing now; is that right?

A. Part of the time.

Q. I mean, that is what you are now describing?

A. Yes.

Q. And when you change it this 3/16 of an inch or 7/8, or whatever it was you said, that is when you have changed the size?

A. That is a part of the procedure.

Q. And then you go on and size it all the way through; is that true?

A. There are, anyway, I would say, perhaps around a dozen moves, maybe more, to make one size.

Q. These marks are all on a pattern, aren't they?

A. They are on heavy paper.

Q. They are not on the cloth?

A. No.

Q. Now, what is your next step? Or, do you have it graded?

A. I didn't tell all of the dozen or more steps, no. [389]

(Testimony of Eunice Dorothy Usher.)

Q. When was the last time you graded a pattern?

A. I was doing some grading this morning.

Q. This morning. How much grading did you do this morning?

A. I completed the pattern I had been working on. I don't recall at what hour I finished.

Q. When did you begin grading patterns for Lettie Lee?      A. When did I begin grading?

Q. Yes.

A. I have been doing it off and on for the last year and a half, since I have been with them this time.

Mr. Nicoson: That is all.

#### Cross Examination

Q. (By Mr. Sokol) Have you got any raise since the strike?      A. I have.

Q. How much were you getting just prior to the strike?

Mr. Shapiro: Objected to as being incompetent, irrelevant and immaterial.

Trial Examiner Erickson: Overruled.

Mr. Shapiro: She is not a party to this proceeding, or a complainant.

Trial Examiner Erickson: She may answer.

Mr. Sokol: Overruled, was it?

Trial Examiner Erickson: No. I said she may answer.

Mr. Sokol: Oh.

Trial Examiner Erickson: Oh, yes, it was overruled. [390]

(Testimony of Eunice Dorothy Usher.)

The Witness: Approximately 51 and a fraction, I believe.

Q. (By Mr. Sokol) How do you get paid? By the week, the hour, or the piece?

A. By the hour.

Q. You were getting 51 and a fraction cents an hour? A. Yes.

Q. Did you get time and a half for overtime?

Mr. Shapiro: That is objected to as incompetent, irrelevant and immaterial. It is not an issue in this case, Your Honor

Trial Examiner Erickson: Overruled.

Mr. Shapiro: I don't understand that this is a wage and hour case.

Q. (By Mr. Sokol) Were you getting time and a half for overtime?

A. I don't recall doing any overtime.

Q. Now, what kind of a machine did you do your cutting with?

A. A regular cutting machine.

Q. You mean there is only one kind of a cutting machine?

A. There are Wolf's, there are——

Q. Wolf? Did you say Wolf?

A. I believe that is the name of one of the cutting machines. [391]

Q. You are mistaken, aren't you? You really don't know.

A. Well, there is a Universal machine.

Q. The kind that the cutters, the men cutters use?

(Testimony of Eunice Dorothy Usher.)

A. I believe those are the names of the cutting machines, the companies they are made by.

Q. Any others?

A. I have never paid much attention to the names on them, of the companies on them.

Q. Well, there are different types of machines, are there?      A. Well,—

Q. What kind of a machine did you use?

A. It is a large round disc cutting machine.

Q. Round. What kind of a knife did it have?

A. A round blade.

Q. You worked for the custom tailors, too, on men's garments?

A. I worked for a tailor on men's garments.

Q. Where did you learn how to make men's garments as a cutter?      A. There.

Q. In this one place?

A. It wasn't on men's tailoring. It was on ladies' tailoring.

Q. You learned right at that place, and you went right to work as a cutter? [392]

A. Yes. There wasn't a great deal of difference from what I had done before.

Q. What did you do in the slow season at Lettie Lee?

A. I do regular cutting, and I do some grading, and some sloping, when it comes in.

Q. What else do you do, when you don't do those things? You are still working in the slow season, aren't you? Do you do any other production work?      A. I do sample cutting.

(Testimony of Eunice Dorothy Usher.)

Q. What else?

A. I don't recall anything else.

Q. You are kept on in the slow season?

A. Not all of the time.

Q. What wage did you start at when you went to work at Lettie Lee? What wage?

Mr. Shapiro: Objected to as being incompetent, irrelevant and immaterial.

Trial Examiner Erickson: Sustained.

Q. (By Mr. Sokol) That is all. Oh, I will ask you this: Were you asked by Mr. Bothman, these questions before you came to the witness stand?

A. No, sir.

Q. Haven't you talked to anyone before you came up here to the witness stand, about what you were going to testify to?

A. Well, they asked me a few questions. I answered them. [393]

Q. Who asked you? Can't you point him out?

A. I had a few words with Mr. Shapiro and a few with Mr. Bothman.

Q. Has Mr. Bothman ever asked you if you were a Union member? A. I think not.

Q. He asked other people around there, hasn't he?

Mr. Shapiro: I object to that.

The Witness: I don't know.

Mr. Shapiro: I will withdraw the objection.

Trial Examiner Erickson: Let it stand.

Mr. Sokol: That is all.



(Testimony of Eunice Dorothy Usher.)

Redirect Examination

Q. (By Mr. Shapiro) When was the first time you ever saw me?

A. This morning. This morning, yes.

Q. About what time?

A. About 10:00 o'clock.

Q. Did I ask you to describe what your duties consisted of at the plant? A. You did.

Q. And how they compared with the work that the men cutters did? A. Yes, sir.

Q. And did you give me substantially the same answers as [394] you gave from the witness stand?

A. I did.

Q. Did I tell you what to testify to?

A. You did not.

Mr. Sokol: That is not in issue.

Mr. Shapiro: You seem to have made it an issue.

Mr. Sokol: Oh, no, I didn't.

The Witness: I agreed to tell the truth.

Mr. Nicoson: I want to ask one more question.

Mr. Shapiro: What was the last answer?

The Witness: I agreed to tell the truth.

Mr. Shapiro: That is all.

Recross Examination

Q. (By Mr. Nicoson) I have one more question: When is the slow season? I think you testified there was a slow season, didn't you?

A. Yes. It was slow in the early part of this month.

Q. Well, do you have more than one slow season?

(Testimony of Eunice Dorothy Usher.)

A. Yes. Usually, there is a summer slow season and a fall slow season.

Q. What months in the summer do you have a slow season?

A. Oh, around—it varies with the year—around April and May.

Q. April and May?

A. Sometimes later than that. [395]

Q. Does it sometimes extend over into June?

A. Sometimes it begins later and extends a little later.

Q. Do you know whether or not Lettie Lee had a slow season this year?

Mr. Shapiro: That is objected to as calling for a conclusion of this witness.

Trial Examiner Erickson: You mean in 1942?

Mr. Nicoson: No, I mean 1941. That is what I meant to say.

Trial Examiner Erickson: She may answer.

The Witness: I would think so.

Q. (By Mr. Nicoson) Well, when was the slow season this year, or in 1941?

A. Around April or May.

Q. Would you say it extended up into June?

A. I don't recall how long it extended.

Q. Did it extend up into July?

Mr. Shapiro: I am going to object to this question, if the Court please, on the ground it is neither cross-examination, nor proper redirect examination; on the further ground that all of these questions call for the conclusion of this witness.

(Testimony of Eunice Dorothy Usher.)

Mr. Nicoson: Well, I don't know who it was, but somebody had her testify that she wasn't always kept on in slow seasons, and I wanted to ask her about that. [396]

Mr. Shapiro: I didn't ask her that.

Mr. Sokol: I was the one that asked that.

Trial Examiner Erickson: She may answer.

Q. (By Mr. Nicoson) Do you know whether or not the slow season in 1941 extended up into July?

A. I think not, as far as I was concerned.

Q. As far as you were concerned, it didn't; is that right? A. I believe not.

Q. And that is also true of August, is it not?

A. I was working in August. I don't recall.

Q. Well, as a matter of fact, in July and August was when you began the peak of your business for the fall trade; isn't that right?

A. I was busy at that time.

Q. Well, not only you, but the rest of the plant; is that right?

A. In July and August, I would say yes.

Q. You would say yes. And also September?

A. I think it was pretty good then.

Mr. Nicoson: Pretty good in September. Thank you. That is all.

Trial Examiner Erickson: Do men do sloping?

The Witness: I don't know of any men who do much sloping.

Trial Examiner Erickson: Well, have you known them to [397] do any sloping in Lettie Lee?

(Testimony of Eunice Dorothy Usher.)

The Witness: Perhaps just occasionally, if there was more than I could take care of, but not as a practice.

Trial Examiner Erickson: Is that because you are more skilled than the men are?

The Witness: It is.

Trial Examiner Erickson: All right.

Mr. Shapiro: Nothing further.

Trial Examiner Erickson: Step down.

(Witness excused.)

Trial Examiner Erickson: We will adjourn until 9:30 tomorrow morning.

(Whereupon, at 4:30 o'clock p. m. the hearing in the above entitled matter was adjourned until 9:30 a. m. January 28, 1942.) [398]

[Title of Board and Cause.]

Room 808, United States Post Office and  
Court House Building,  
Spring, Temple and Main Streets,  
Los Angeles, California,

Wednesday, January 28, 1942.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

## PROCEEDINGS

Trial Examiner Erickson: The proceeding will come to order.

Mr. Shapiro: I will call Miss Lembke.

## KATHRYN LEMBKE,

called as a witness by and on behalf of the respondent, having been first duly sworn, was examined and testified as follows:

## Direct Examination

Q. (By Mr. Shapiro) Will you state your name, please?

A. Kathryn Lembke, K-a-t-h-r-y-n L-e-m-b-k-e.

Q. Where are you employed, Miss Lembke?

A. Where?

Q. Yes. A. At Lettie Lee, Inc.

Q. How long have you been working there?

A. Two and a half years about, approximately.

Q. In what capacity are you employed there?

A. Cutter.

Q. Do you work in the same department that Eunice Usher works in? A. Yes, sir.

Mr. Nicoson: I object to the use of the word "department." There is no evidence here to show there is such a thing. [401]

Mr. Shapiro: Without meaning by the use of the term to attach any particular significance to the term.

Mr. Nicoson: With that understanding I withdraw the objection.

Trial Examiner Erickson: She may answer it then.

Q. (By Mr. Shapiro) What is your answer?

A. Yes, I do.

Q. To clear up the term, do you work within the space on the 12th floor enclosed by a partition and the two walls of the building?

(Testimony of Kathryn Lembke.)

A. Yes, sir.

Q. In the same room where Vito Cimarusti, and Angelo Castella, Joe Sardo, Louis Baliber, Don Quinn and Nolan Berteaux worked?

A. Yes, sir.

Q. Will you state to the Court what your duties consist of?

A. At present I am cutting dresses, the same as the other men, which is, an order comes in and I get a marker and cut a stack of dresses, as many as the order calls for.

Q. What tools, or instruments, do you use in your work?

A. The scissors, machine, short knife.

Q. Will you describe the procedure that you follow in cutting a dress? Just start at the beginning and take up through each step. [402]

A. I look at the ticket to see what style the dress calls for. I go to the right bin and get the marker and the pattern, and I then proceed to unroll the marker and lay it on a piece of paper. Then I spread my material, the proper length, and lay the marker on them, and cut it out.

Q. Do you do any sloping?

A. I have done sloping.

Q. What do you do in connection with sloping? Describe that process.

A. I take the pattern and if there should be a strip of pleating, I place the pattern on the pleating, mark around it with chalk, cut it out, put in all the notches, and stamping it, if necessary.



(Testimony of Kathryn Lembke.)

Q. Were you in the court room yesterday afternoon when Eunice Usher testified?

A. Yes, sir.

Q. Do you perform substantially the same duties that she testified to yesterday?

Mr. Nicoson: I object, unless he fixes a time.

Trial Examiner Erickson: Will you read the question again, please?

(The question was read.)

Trial Examiner Erickson: You mean at the present time?

Mr. Shapiro: I will withdraw the question. [403]

Q. (By Mr. Shapiro) Were you working at Lettie Lee on July 24, the day a strike was called?

A. No, sir.

Q. Where were you at that time?

A. I was on a leave of absence.

Q. When did you leave on your leave of absence?

A. The latter part of June, I think between the 25th and the 30th of June, —no, of May, I mean.

Q. 1941? A. May, it was. Yes, 1941.

Q. And when did you return?

A. October 2nd.

Q. Where did you go?

A. To Lake Tahoe.

Q. Have you been taking a leave of absence every year at approximately the same time?

A. Yes, sir.

Q. How many times have you done that?

A. Twice since I have been at Lettie Lee.

(Testimony of Kathryn Lembke.)

Q. You always return to your employment after your summer leave is finished? A. Yes, sir.

Q. Prior to the time that you left on your leave of absence the latter part of May, 1941, what type of work were you doing? [404]

A. I was cutting trimmings, that year, sleeve fillings, and I was re-cutting.

Mr. Nicoson: What was that? I am sorry.

(Portion of answer read.)

Q. (By Mr. Shapiro) Anything else?

A. I was cutting a few dresses when they were needed.

Q. In cutting the dresses, did you perform the same operation that you have testified to previously?

A. Yes.

Q. How long have you been cutting at Lettie Lee?

A. 1939, about September. That isn't definite.

Q. Do you work at the same kind of a bench or table that the male cutters use?

A. Exactly.

Q. Do you use the same tools that they use?

A. Yes, sir.

Q. Do you perform the same operations and functions that they do in cutting out a dress?

A. Precisely.

Q. Is there any difference between the work you do and the work that the men cutters do?

A. None at all, except that they didn't cut trimmings while I was cutting trimmings, of course.

Q. Can you make a marker?

(Testimony of Kathryn Lembke.)

A. Yes, sir. [405]

Q. Have you ever made any? A. Yes.

Q. What is a marker?

A. It is a piece of paper upon which the pattern is marked, where, when we cut out our material in order not to spoil the material, we mark it on the paper.

Q. Do the male cutters make markers?

A. Sometimes.

Mr. Shapiro: That is all.

#### Cross Examination

Q. (By Mr. Nicoson) Who makes them the other time?

A. We have a man that does all the—he does nothing but make markers.

Q. Who is that? A. Mr. Litwin.

Q. Mr. Litwin makes all the markers, doesn't he? A. Yes.

Q. And as a general rule, that has been going on for the last year, or longer; isn't that true?

A. Yes.

Q. You aren't called upon to make markers, are you, Miss Lembke? A. Yes.

Q. How often are you called upon to make markers?

A. Well, about two weeks ago I made several for duplicates. [406]

Q. How many would you say is several?

A. Well, I made, I think, three. I wouldn't say. Two or three.

Q. When did you first make a marker?

(Testimony of Kathryn Lembke.)

A. Within the first year that I worked there.

Q. How many did you make around that time?

A. I don't recall. I have no idea.

Q. Now, you have testified that your work is substantially the same as a man operator. By that do you mean there is a difference?

A. At present there isn't any difference at all.

Q. But prior to the strike there was a substantial difference, wasn't there?

A. Well, I could do the same work that the men did, and I did it frequently.

Q. But you didn't do it as a regular custom, did you?      A. Yes, I did.

Q. Prior to the strike?

A. Well, I did other things too.

Q. Prior to the strike your chief job was trimmings, wasn't it?

A. Well, among other things.

Q. Isn't that true?

A. Among other things. I didn't just do trimmings.

Q. But your chief job, was trimmings, isn't that true? [407]      A. Yes.

Q. As a matter of fact, your work was termed a trimmer?

A. No, sir. I was called a cutter. A trimmer isn't a factory—in fact, you don't call them a trimmer.

Q. Well, a trimmer doesn't perform her work until after the operators have worked on it?

A. That's right.

Q. And that is when you performed your work?

(Testimony of Kathryn Lembke.)

A. No, I didn't do that work at all.

Q. You did it prior to the operators?

A. I cut the trimmings as the dress was being cut by the men.

Q. I see. What do these trimmings consist of?

A. Padding for the sleeve caps.

Q. That is a little cotton——

A. And taffetas for the front facings, taffetas for peplums.

Q. Let's get at the paddings first. The padding is a rough cotton, coarse piece of cloth, isn't it?

A. Cotton batting.

Q. Cotton batting. And in the cutting of these paddings, you used the scissors, didn't you?

A. And the machines.

Q. And the machines, and a short knife. What is the short knife?

A. It is a small, heavy knife with a short blade. It has [408] a heavy handle.

Q. Is it power operated? A. No.

Q. Just an ordinary knife?

A. It is just a knife.

Q. Just an ordinary knife. Now, the biggest portion of your time was consumed in this padding business, wasn't it? A. Not always.

Q. But as a general rule, that was true?

A. Yes.

Q. Now, you also cut paddings for the interior or the inside of belts? Am I right about that?

A. Linings, yes.

Q. And when you cut those paddings, they were

(Testimony of Kathryn Lembke.)

made out of the same coarse cotton material; isn't that right?

A. No. Some of the linings are sometimes taffeta. Sometimes they are muslin.

Q. Sometimes muslin. Well, muslin isn't as heavy as the padding material, is it? A. No.

Q. Do you say that you cut more muslin than you did taffeta for inside of belts?

A. Well, I can't say. I have no idea.

Q. Well, as a general rule, aren't belts lined with muslin more than with taffeta? [409]

A. Not especially, no. It depends upon the style, the line that happens to be selling at that time.

Q. Would it be about 50-50?

A. I would say so.

Q. Just about 50-50? A. Yes.

Q. In that operation you used the scissors, did you? A. The scissors and machine.

Q. And the machine knife. And did you use the short knife also? A. No.

Q. You don't use the short knife on belts?

A. No.

Q. Now, what else was it that you said you cut besides that? A. I did re-cutting.

Q. Re-cutting.

A. Any material that—any dress that had a flaw in it, that has to be sent back, so that that particular piece must be re-cut.

Q. That is a salvage operation, isn't it?

A. What do you mean by "salvage"?



(Testimony of Kathryn Lembke.)

Q. Well, you are trying to save the piece of cloth, aren't you?      A. Yes. [410]

Q. The cloth with the flaw, so that it can be used in the ordinary operation, you then re-cut, so that you do really salvage it from the faulty piece of material?

A. No. I use a new piece of material to make the re-cutting.

Q. I see. Well, where you find a faulty piece of material, it is your job to substitute for that faulty piece a good piece; is that correct?

A. Yes, sir.

Q. And you put the bad piece on the good piece and cut around it?      A. No, I take the pattern.

Q. You take the pattern?

A. And make a marker for that particular piece, and lay it on the material and cut it.

Q. Now, do you ever do any trimming after the operator has finished the garment?      A. Never.

Q. These trimmings as you cut them, what do you do with them?

A. I wrap them up in a piece of paper and put them with the dress.

Q. And send them over to the assorter?

A. Either give them to the cutter, as he was finishing the dress, or else take them to the assorter.

[411]

Q. I see. Now, prior to the strike how often did you cut a dress?

A. I can't say. I cut many dresses there the first year. I cut more perhaps than I did the second season.

(Testimony of Kathryn Lembke.)

Q. Let's talk about the second season. You cut very few dresses during the second season, didn't you?

A. Well, when it was slow, I was kept on and I cut dresses at that time.

Q. Did you cut dresses when the full complement of men cutters were there?

A. If it were needed, I did.

Q. Well, was it ever needed?

A. Well, yes.

Q. How often did that occur?

A. I don't know.

Q. You haven't any idea?

A. I have no idea.

Q. Now, isn't it your practice, Miss Lembke, in the summer months when you go up to Lake Tahoe, —when you take off and go up to Lake Tahoe, there you become employed?

A. For a vacation, yes.

Q. You work during the entire period that you are up there, don't you?

A. Yes. Not—well, I spent a month at San Francisco this last time that I didn't work. [412]

Q. But for three months you were employed at Lake Tahoe? A. Yes.

Q. You weren't employed in the garment business up there at that time, were you? A. No.

Q. Did you also work up there the previous year? A. Yes.

Q. You go up there and get your job each summer; is that right? A. Yes.

Q. The same job? A. Yes.

(Testimony of Kathryn Lembke.)

Q. For the same employer? A. Yes, sir.

Mr. Nicoson: That is all.

Cross Examination

Q. (By Mr. Sokol) How much did you make prior to the strike, just immediately prior to the strike?

A. Well, I wasn't there. Oh, you mean before I went away in the summer?

Q. That is right. A. \$20.00.

Q. A month, or a week? A. A week.

Q. Did you get time and a half for overtime?

[413]

A. Yes, sir, I did.

Mr. Shapiro: That is objected to as incompetent. I will withdraw the objection.

Mr. Sokol: All right.

Mr. Shapiro: I think we ought to have an understanding though that we are trying a particular controversy here.

Mr. Sokol: Why take up time with that?

Mr. Shapiro: Why ask the question, if you don't want to take up time?

Q. (By Mr. Sokol) Now, Miss Lembke, how many times have you discussed your testimony with Mr. Bothman, before taking the witness stand?

A. Yesterday morning.

Q. And today? And this morning?

A. I spoke to Mr. Shapiro this morning, not with Mr. Bothman.

Q. Yesterday morning how much time did you take up with Mr. Bothman?

(Testimony of Kathryn Lembke.)

A. Maybe three minutes; maybe five minutes.

Q. Maybe ten minutes?

A. No, sir. He spoke to me a very minutes.

Q. Where?

A. He came to my table in the cutting room.

Q. And what did he say?

A. Well, I can't repeat his exact words. [414]

Q. Are you being paid for being here?

A. Yes, sir.

Q. Have you ever been a member of the union?

A. No, sir.

Q. When did you go to work for Mr. Bothman?

A. In 1939.

Q. Prior to that time had you ever worked in the garment industry?      A. Yes, sir.

Q. With what concern?

A. M. & G. Koch, K-o-c-h.

Mr. Shapiro: May I have the last question and answer, please?

(The question and answer were read.)

Q. (By Mr. Sokol): How big a concern is that? How many employees?

A. I can't say how many employees. About—it was about—it was a small concern.

Q. What did you do there?

A. (Continuing): —maybe 25 employees. I cut.

Q. Cut what?      A. Garments.

Q. What kind of garments?

A. Housecoats.

Q. Housecoats? [415]

(Testimony of Kathryn Lembke.)

A. Denims, cottons, corduroys.

Q. What kind of machine did you use there?

A. A round blade.

Q. What is the name of it?

A. I am not sure of the machine they had.

Q. How many machines did they have?

A. They had one machine, one cutting machine.

Q. You don't know the name of it?

A. Well, I don't know the brand. I never paid any particular attention.

Q. What brands do they have at your plant?

A. They have a Wolf. Then they have an Eastman, new. Right now they have four Wolfs and one Eastman.

Q. What kind do you use?

A. I use both.

Q. When did you return after the strike?

A. October 2nd.

Q. What was your rate of pay? A. \$24.00.

Q. Then you got an increase?

A. Yes, I have every summer.

Q. Oh, you got an increase every summer?

A. I have been.

Q. When you first went to work for Lettie Lee, how much were you making a week? [416]

A. I was—\$16.00.

Q. \$16.00. And you have gotten up to \$24.00 now? A. Yes, sir.

Q. Do you know what the other cutters make?

A. Yes, sir.

Q. Around \$45.00 or \$50.00 a week, don't they?

(Testimony of Kathryn Lembke.)

A. Yes, sir.

Q. Sometimes more than that, with the overtime, \$65.00 or \$70.00?

A. Yes, sir.

Q. Do you remember the time the cutters got an increase in June, 1941?

A. I wasn't there at that time.

Q. You weren't there. Do you know anything concerning increases received by the cutters?

A. No, sir.

Q. The men cutters?

A. No, sir. They may have mentioned that they got one, but I have never asked them; if they did, it wasn't my business, and I never knew if they were kidding or not anyway so——

Mr. Sokol: That is all.

Mr. Shapiro: Just a minute, Miss Lembke.

#### Redirect Examination

Q. (By Mr. Shapiro): When Mr. Bothman spoke to you yesterday [417] morning, as you have testified, did he tell you what to say?

A. No, sir.

Q. You say that you were being paid for coming up here. What do you mean by that?

A. Well, I don't know. I didn't punch out. That is what I meant. I didn't punch my time card out.

Q. You mean your pay is not being stopped at the factory?

A. That's right.

Q. But you are not being paid—I can't think of the word—you are not being docked for the hour or so this morning; is that what you mean?

A. Yes, sir.



(Testimony of Kathryn Lembke.)

Q. Mr. Bothman hasn't offered you any money to come up here to testify, has he?

A. Oh, no, sir.

Q. As a matter of fact, your compensation or money hasn't even been discussed between you and Mr. Bothman, has it?

A. No, sir.

Q. When you spoke to me this morning did I tell you what to say?

A. No, sir.

Q. What kind of work did you do on your vacations, during your leave of absence?

A. Waitress.

Q. Did you do the same work last summer?

[418]

A. Yes, sir.

Q. And how much were you paid for that?

A. \$30.00 a month, and room and board.

Q. Do you consider that that is your vacation every summer?

A. Yes, sir.

Mr. Nicoson: We object to that, what she considers it.

Trial Examiner Erickson: Sustained.

Mr. Nicoson: I move to strike out the answer, if there is one.

Trial Examiner Erickson: Stricken.

Q. (By Mr. Shapiro): Why do you take the leave of absence every summer and go to Lake Tahoe?

Mr. Nicoson: We object to that as immaterial and irrelevant.

Trial Examiner Erickson: Overruled.

The Witness: Because it is a pleasant change for me.

(Testimony of Kathryn Lembke.)

Q. (By Mr. Shapiro): And you always have an understanding that upon your return you are to resume your employment with Lettie Lee; is that correct? A. Yes, sir.

Mr. Shapiro: That is all.

Recross Examination

Q. (By Mr. Sokol): At \$20.00 a week? Is that your understanding?

A. There has been no discussion of my wages before I left. [419]

Q. Do you know of any occasion when you joined with other cutters in requesting an increase? A. Never.

Mr. Sokol: That is all.

Redirect Examination

By Mr. Shapiro:

Q. By the way, have you been asked to join this Cutters Local? A. Never.

Q. You don't belong to it, do you?

A. No, sir.

Mr. Shapiro: That is all.

Recross Examination

By Mr. Nicoson:

Q. One more question: When you returned from Lake Tahoe this year, you were put to work doing a different type of work than you had prior to your going on your leave of absence; isn't that correct? A. Yes, sir.

Mr. Nicoson: That is all. Thank you.

Mr. Shapiro: Just a minute, Miss Lembke.

(Testimony of Kathryn Lembke.)

Redirect Examination

By Mr. Shapiro:

Q. Before you left on your vacation you had done the same type of work, hadn't you?

Mr. Sokol: That is leading.

The Witness: Yes, sir.

Mr. Nicoson: I object to that, Mr. Examiner. She is [420] his witness.

Trial Examiner Erickson: All right. Reframe the question.

Mr. Nicoson: I move to strike the answer.

Trial Examiner Erickson: It will be stricken.

Q. (By Mr. Shapiro): You say when you returned from your vacation you were given a different kind of work to do. Is that right?

A. Yes, sir. Not exactly different. It is just that I did more of another thing.

Q. All right. Of what thing?

A. Well, I do—I don't cut any trimmings now. I cut just dresses.

Q. Had you cut dresses before you went on your vacation? A. Yes, sir.

Mr. Shapiro: That is all.

Mr. Nicoson: But not generally?

The Witness: Not as many as I do now.

Mr. Nicoson: That is all. Thank you.

Mr. Shapiro: Nothing further.

Trial Examiner Erickson: Step down.

(Witness excused.)

Mr. Shapiro: I will call Mr. Thain. [421]